

11. To section 36 we have added a clause enabling the Governor General in Council to make rules as to the custody of registers and records sent to the Registrar General under section 32.

12. The other amendments of the Bill are unimportant and do not call for special remark.

13. In regard to the argument which has been urged in some of the papers before us that the existing registers of certain religious bodies are admissible in evidence, we are informed that the legal value of those registers has been questioned by high authority, on the ground that they are not maintained under any special injunction of law, or in the ordinary course of business, within the meaning of the Indian Evidence Act, 1872.

14. As regards the working of the proposed Act we understand that existing machinery will, so far as possible, be utilised, and that expenses will be defrayed from fees payable under the Act.

15. Other objections taken to the Bill are (a) that some Registrars may object to the provisions of section 16, sub-section (2), and (b) that difficulties may result from the requirement of section 22, sub-section (1), that the person giving notice of a birth or death must sign the entry in the register in the presence of the Registrar. As regards the first of these objections we observe that section 16, sub-section (2), will not apply to all Registrars, but only to those to whom the Local Government applies the sub-section. As regards the second objection the risk of difficulties arising may be diminished, if not removed, by provision being made, in the rules under clause (c) of section 36, for an enlargement under certain circumstances of the time within which notices may be given of births and deaths.

16. The publication ordered by the Council has been made as follows :—

*In English.*

<i>Gazette.</i>	<i>Date.</i>
Gazette of India ...	17th, 24th and 31st January, 1885.
Fort Saint George Gazette ...	10th February, 1885.
Bombay Government Gazette ...	22nd and 26th January, and 5th February, 1885.
Calcutta Gazette ...	21st and 28th January, and 4th February, 1885.
North-Western Provinces and Oudh Government Gazette ...	20th and 31st January, and 7th February, 1885.
Punjab Government Gazette ...	29th January, and 5th and 12th February, 1885.
Central Provinces Gazette ...	24th and 31st January, and 7th February, 1885.
British Burma Gazette ...	7th, 14th and 21st February, 1885.
Assam Gazette ...	7th, 14th and 21st February, 1885.
Coorg District Gazette ...	2nd March, 1885.

*In the Vernaculars.*

<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Madras ...	Telugu ...	31st March, 1885.
	Kanarese ...	8th April, 1885.
	Tamil ...	5th May, 1885.
	Hindustani ...	12th May, 1885.
	Malayalam ...	2nd June, 1885.
Bombay ...	Maráthí } ...	23rd April, 1885.
	Gujaráthí } ...	30th May, 1885.
Bengal ...	Kanarese ...	3rd, 10th and 17th February, 1885.
	Bengalí ...	17th and 24th February, and 3rd March, 1885.
	Hindí ...	12th, 19th and 26th February, 1885.
Punjab ...	Uriya ...	2nd, 9th and 16th March, 1885.
Central Provinces ...	Urdu ...	2nd, 9th and 16th May, 1885.
British Burma ...	Maráthí ...	21st and 28th March, and 4th April, 1885.
Assam ...	Burmese ...	21st February, 1885.
	Bengalí ...	

17. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

C. P. ILBERT.

S. C. BAYLEY.

PEARI MOHAN MUKERJI.

H. ST. A. GOODRICH.

ROBERT STEEL.

W. W. HUNTER.

*The 5th February, 1886.*

S. HARVEY JAMES,

*Offg. Secretary to the Government of India.*

## GOVERNMENT OF INDIA.

## LEGISLATIVE DEPARTMENT.

[First publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 8th March, 1886, and is hereby promulgated for general information :—

## NO. VII OF 1886.

*An Act to amend the Indian Registration Act, 1877.*

WHEREAS it is expedient to amend the Indian Registration Act, 1877, in manner hereinafter appearing ; It is hereby enacted as follows :—

Short title and commencement. I. (1) This Act may be called the Indian Registration Act, 1886 ; and

(2) It shall come into force at once.

2. After clause (f) of section 17 of the Indian Registration Act, 1877, the following clause shall be inserted, that is to say :—

“(ff) any debenture issued by any such Company and not creating, declaring, assigning, limiting or extinguishing any right, title or interest to or in immoveable property except in so far as it entitles the holder to the security afforded by a registered instrument whereby the Company has mortgaged, conveyed or otherwise transferred the whole or part of its immoveable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures, or”.

Addition to sections 17 and 89, and amendment of section 58, of same Act.

3. (1) After clause (l) of section 17 of the same Act the following clause shall be added, that is to say :—

“(m) orders granting loans under the Agriculturists' Loans Act, 1884, and instruments for securing the repayment of loans made under that Act.”

(2) In section 58 of the same Act, for the words “or a copy of a certificate under the Land Improvement Act, 1871, sent by the Collector to be registered,” or, where the Land Improvement Loans Act, 1883, is in force, for the words “or a copy of an order under the Land Improvement Loans Act, 1883, sent by the Collector to

be registered,” there shall be substituted the following words, namely :—

“or a copy sent to a registering officer under section 89”.

(3) After the second paragraph of section 89 of the same Act the following paragraph shall be added, that is to say :—

“Every officer granting a loan under the Agriculturists' Loans Act, 1884, shall send a copy of any instrument whereby immoveable property is mortgaged for the purpose of securing the repayment of the loan, and, if any such property is mortgaged for the same purpose in the order granting the loan, a copy also of that order, to the registering officer within the local limits of whose jurisdiction the whole or any part of the property so mortgaged is situate, and such registering officer shall file the copy or copies, as the case may be, in his Book No. 1.”

4. After clause (m) of section 17 of the same Act as amended by this Act the following clause shall be added, that is to say :—

“(n) any endorsement on a mortgage-deed acknowledging the payment of the whole or any part of the mortgage-money, and any other receipt for payment of money due under a mortgage when the receipt does not purport to extinguish the mortgage.”

5. In the second paragraph of section 50 of the same Act, “(ff)” shall be inserted between “(f)” and “(g)”, and for the word and letter “and (l)” the letters and word “(l), (m) and (n)” shall be substituted.

6. (1) After clause (d) of section 90 of the same Act the following clause shall be inserted, that is to say :—

“(e) notices given under section 74, or section 76, of the Bombay Land-revenue Code, 1879, of relinquishment of occupancy by occupants, or of alienated land by holders of such land”.

(2) In section 91, for the word and letter “and (c)” the letters and word “(c) and (e)” shall be substituted.

(3) The said Act shall be construed as if the amendments made in it by this section had been made at the time the Act came into force.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.



The following Report of the Select Committee on the Bill to amend the Indian Registration Act, 1877, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 5th February, 1886:—

### LEGISLATIVE DEPARTMENT.

WE, the undersigned, Members of the Select Committee to which the Bill to amend

the Indian Registration Act, 1877, was referred, have considered the Bill and the papers noted on the margin, and have now the honour to submit this our Report.

2. The Bill as introduced has been approved by the authorities to whose criticism it was submitted. Some suggestions for the further amendment of the Act have been made; but, as the revision of the law relating to registration is understood to be under the consideration of the Government of India, we have deemed it advisable not to deal with them generally in this Bill. On one suggestion, however, we have deemed it necessary to act at once. It was that the law should declare receipts for payments of mortgage-money to be optionally, and not compulsorily, registrable. In connection with this suggestion we have considered the case reported at I. L. R. 6 All. 335, and the cases there cited, and the replies of Local Governments and High Courts to a letter addressed to them by the Government of India on the subject of those cases. The authorities to whom the letter was addressed are almost unanimously of opinion that, on grounds of convenience, receipts for payment of mortgage-money ought not to be compulsorily registrable. We concur in that opinion, and have added to the Bill a clause (section 4) excepting from the operation of clauses (b) and (c) of section 17 of the Act (i) any endorsement on a mortgage-deed acknowledging the payment of the whole or any part of the mortgage-money, whether the endorsement does or does not purport to extinguish the mortgage, and (ii) any other receipt for payment of money due under a mortgage when the receipt does not purport to extinguish the mortgage. In so framing the clause we have, as regards endorsements, followed the course recommended by the High Court at Bombay, and, as regards other receipts, the general tenor of the opinions expressed by the authorities whom the Government of India has consulted.

3. The amendments which the Bill renders it necessary to make in section 50 of the Act have been made in a separate clause (section 5).

4. The publication ordered by the Council has been made as follows:—

#### *In English.*

<i>Gazette.</i>	<i>Date.</i>
Gazette of India ...	13th, 20th and 27th June, 1885.
Fort Saint George Gazette ...	30th June, 1885.
Bombay Government Gazette ...	18th and 25th June, and 2nd July, 1885.
Calcutta Gazette ...	24th June, and 1st and 8th July, 1885.
North-Western Provinces and Oudh Gazette ...	20th and 27th June, and 4th July, 1885.
Punjab Government Gazette ...	18th and 25th June, and 2nd July, 1885.
Central Provinces Gazette ...	20th and 27th June, and 4th July, 1885.
British Burma Gazette ...	4th, 11th and 18th July, 1885.
Assam Gazette ...	4th, 11th and 18th July, 1885.
Coorg District Gazette ...	1st August, 1885.
Sindh Official Gazette ...	2nd July, 1885.

#### *In the Vernaculars.*

<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Madras	Tamil ...	31st July, 1885.
	Telugu ...	Ditto.
	Hindustani ...	Ditto.
	Kanarese ...	7th August, 1885.
Bombay	Malayalam ...	Ditto.
	Maráthi ...	16th July, 1885.
	Gujaráthi ...	Ditto.
	Kanarese ...	Ditto.
	Sindhi ...	16th July, 1885.

	Province.		Language.		Date.
Bengal	...	...	Bengali	...	14th, 21st and 28th July, 1885.
			Hindi	...	11th, 18th and 25th August, 1885.
Punjab	...	...	Urdu	...	27th July, and 3rd and 10th August, 1885.
Central Provinces	...	...	Maráthi	...	8th, 15th and 22nd August, 1885.
British Burma	...	...	Burmese	...	18th and 25th July, and 1st August, 1885.
Coorg	...	...	Kanarese	...	1st September, 1885.

5. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

C. P. ILBERT.

S. C. BAYLEY.

V. N. MANDLIK.

G. H. P. EVANS.

ROBERT STEEL.

W. W. HUNTER.

*The 5th February, 1886.*

S. HARVEY JAMES,

*Offg. Secretary to the Government of India.*



## GOVERNMENT OF INDIA.

## LEGISLATIVE DEPARTMENT.

[First publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 8th March, 1886, and is hereby promulgated for general information:—

## ACT NO. VIII OF 1886.

*An Act to amend sections 12 and 13 of the Bengal Tenancy Act, 1885.*

35. WHEREAS it is expedient to amend sections 12 and 13 of the Bengal Tenancy Act, 1885, in manner hereinafter appearing; It is hereby enacted as follows:—

1. In section 12, sub-section (2), before the word "mortgage" the word "usufructuary" shall be inserted.

2. (1) In section 13, sub-section (1), before the words "the Court" the words "or when a mortgage of a permanent tenure, other than an usufructuary mortgage thereof, is foreclosed," shall be inserted.

(2) In the same sub-section, before the word "require" the words "or making a decree or order absolute for the foreclosure," shall be inserted.

(3) In the same sub-section, before the words "to pay into Court" the words "or mortgagee" shall be inserted.

(4) In the same sub-section, before the words "on the landlord" the words "or final foreclosure" shall be inserted.

(5) In section 13, sub-section (2), before the words "the Court" the words "or the decree or order absolute for the foreclosure has been made," shall be inserted.

(6) In the same sub-section, before the words "in the prescribed form," the words "or final foreclosure" shall be inserted.

S. HARVEY JAMES,

*Offg. Secretary to the Government of India.*

## GOVERNMENT OF INDIA.

## LEGISLATIVE DEPARTMENT.

[First publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 10th March, 1886, and is hereby promulgated for general information:—

## ACT NO. IX OF 1886.

*An Act to apply the Chutia Nagpur Encumbered Estates Act, 1876, to the Deo Estate in the Gaya District.*

WHEREAS Rájá Bhikam Narayan Singh Bahadur, of Deo in the district of Gaya, is subject to, and his immoveable property is charged with, debts and liabilities other than debts due, and liabilities incurred, to the Government;

And whereas the said Rájá has requested that the provisions of the Chutia Nagpur Encumbered Estates Act, 1876, be applied to his case;

And whereas the persons to whom the debts are due and the liabilities have been incurred have assented to the application of the Chutia Nagpur Encumbered Estates Act, 1876, to the case, on the condition that their title to receive the principal and interest due to them be in no way impaired thereby;

It is hereby enacted as follows:—

1. (1) This Act may be called the Deo Estate Short title and commencement. Act, 1886; and (2) It shall come into force at once.

2. The provisions of the Chutia Nagpur Encumbered Estates Act, 1876, as amended by Act V of 1884, may be applied to the case of the said Rájá Bhikam Narayan Singh Bahadur, subject to the following modifications, namely:—

(1) The expressions "Commissioner", "Deputy Commissioner" and "holder", where used in the said Act, shall be construed as referring to the Commissioner of the Patna division, the Collector

of the Gaya district and the said Rájá, respectively.

(2) Notwithstanding anything in section 2 of the said Act, the Commissioner may, without any further application from the said Rájá and without any further notification of the consent of the Lieutenant-Governor of Bengal, publish an order under that section appointing a manager and vesting in him the management of the whole of the immoveable property of or to which the said Rájá is then possessed or entitled in his own right, or which he is entitled to redeem, or which may be acquired by or devolve on him or his heir during the continuance of the management.

(3) Section 4 of the said Act shall be read as if after the words "and their families" the words "and persons entitled to receive maintenance from the property" were added.

(4) Notwithstanding anything in section 8—

the sums mentioned in column 2 and column 4 of the schedule to this Act, as principal and as balance due from the said Rájá on the thirty-first day of December, 1885, respectively,

and the rate of interest mentioned in column 3 of that schedule,

shall, save in so far as any error with respect thereto may be proved to the satisfaction of the Commissioner, be deemed to be justly due to the several persons mentioned in column 1 of the schedule.

(5) The scheme prepared and approved under section 11 of the said Act shall provide that out of the residue applicable under section 4 of that Act, after discharge of costs of management, to the settlement of debts and liabilities, interest at the rate of six per cent. per annum in respect of so much of the principal sum of six hundred and fifty thousand rupees as is for the time being due to the Mahárájá of Darbhanga shall be paid to the Mahárájá before any sum is paid thereout to any other creditor.

(6) The second clause of section 12 of the said Act shall be read as if for the words "at any time before a scheme has been approved by him under section 11" the words "at any time before the occurrence of either of the events mentioned in the first and third clauses of this section" were substituted.



(7) The power conferred on the manager by the second clause of section 16 of the said Act, to apply for the removal of a mortgagee or conditional vendee in possession, shall not be exercised.

(8) The exercise of the power of sale conferred by section 18 of the said Act shall be subject to the following conditions, namely :—

(a) that one month's notice shall be given to the Mahārājā of Darbhanga of the manager's intention to sell any property of which the said Mahārājā is mortgagee ;

(b) that until the debt due to the said Mahārājā has been reduced to the sum of six hundred and fifty thousand rupees no portion of the proceeds of the sale of any of that property shall, without the previous consent of the Mahārājā, be paid to any other creditor ; and

(c) that, except with the previous consent of the said Mahārājā, so much of that property shall be left unsold as will yield a yearly income sufficient, after compliance with the rest of the scheme prepared and approved under section 11 of the said Act, to meet the yearly interest for the time being payable to the Mahārājā.

(9) Section 23 of the said Act shall be read as if for the words "the Courts in Chutia Nagpur" the words "any Court" were substituted, and as if the following words were added to the section, namely :—"and a suit relating to a claim of maintenance from the property shall not be entertained by any such Court without the previous consent of the Commissioner."

3. Nothing contained in this Act shall be construed as affecting the priority of any debt due, or liability incurred, to the Government.

## SCHEDULE.

(See section 2, clause (4)).

Name of Creditor.	Principal.		Annual rate of interest per centum.	Balance due on the 31st December, 1885.	
1	2		3	4	
	Rs.	A. P.		Rs.	A. P.
Mahārājā Luchhmes-har Singh Bahadur of Darbhanga.	6,50,000	0 0	6	8,18,141	4 0
Bābū Kameshwar Prasad.	2,89,751	12 2	6	2,85,340	2 7
Ditto . . . . .	21,000	0 0	12	21,000	0 0
Ditto . . . . .	9,000	0 0	12	9,000	0 0
Sayyid Lutf Ali Khan Bahadur.	12,045	4 0	6	13,460	8 8
Nurjahan Begum . . . . .	9,405	0 0	6	10,577	10 1
Gosain Dalmirpuri . . . . .	5,000	0 0	6	6,535	0 0
Gosain Dalmirpuri and Bhakhi Singh. . . . .	5,400	0 0	6	4,850	0 0
Bābū Ramgopal Singh and Bābū Ram Kirpal Singh. . . . .	4,000	0 0	12	4,000	0 0
Ditto . . . . .	3,500	0 0	12	3,500	0 0
Ditto . . . . .	14,484	8 9	6	15,377	12 2
Sayyid-un-nissa Bibi . . . . .	29,660	0 0	18	53,725	1 0
Bābū Baijnath Singh . . . . .	13,503	13 9	12	17,996	1 10
Ditto . . . . .	777	8 5	Nil	777	8 5
Shaikh Imāman and Ramdhan Barai. . . . .	10,000	0 0	9	10,000	0 0
Bihari Lal Barik . . . . .	3,300	0 0	72	6,006	0 0
Ditto . . . . .	1,750	0 0	72	3,094	0 0
Lachhman Dās and Mathura Dās. . . . .	4,998	2 6	6	4,215	14 7
Ramkishn Dās . . . . .	1,195	10 0	12	1,267	5 0
Narayan Sahu, Sheo Sahu, Bhichuk Sahu and Sheocharan Sahu. . . . .	3,500	0 0	12	3,052	12 0
Madho Singh . . . . .	7,702	0 6	6	7,070	6 11
Raghubar Singh . . . . .	3,000	0 0	12	2,824	2 4
Bishn Saran Lal . . . . .	389	0 0	12	389	0 0
Mahārāni Balirāj Kunwar. . . . .	80,000	0 0	4½	80,000	0 0

S. HARVEY JAMES,

Offg. Secy. to the Govt. of India.

## GOVERNMENT OF INDIA.

## LEGISLATIVE DEPARTMENT.

[First publication].

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 12th March, 1886, and is hereby promulgated for general information:—

## ACT NO. X OF 1886.

*An Act to amend the Code of Criminal Procedure, 1882, and certain other Acts.*

WHEREAS it is expedient to amend the Code of Criminal Procedure, 1882, and certain other Acts; It is hereby enacted as follows:—

*Code of Criminal Procedure, 1882.*

1. In the last paragraph of section 31 of the Code of Criminal Procedure, 1882, for the words "any sentence of imprisonment for a term exceeding three years" the words "any sentence of imprisonment for a term exceeding four years, and any sentence of transportation," shall be substituted.

2. For section 34 of the same Code the following shall be substituted, namely:—

"34. The Court of a District Magistrate, specially empowered under section 30, may pass any sentence authorized by law, except a sentence of death or of transportation for a term exceeding seven years or of imprisonment for a term exceeding seven years; but any sentence of imprisonment for a term exceeding four years, and any sentence of transportation, shall be subject to confirmation by the Sessions Judge"

3. After section 55 of the same Code, and after section 56 thereof, the following shall be added, namely:—

"This section applies to the police in the towns of Calcutta and Bombay."

4. In sections 88 and 514 of the same Code, after the words "District Magistrate" the words "or Chief Presidency Magistrate" shall be inserted.

5. In section 110 of the same Code, for the words "Sub-divisional Magistrate or Magistrate of the first class specially empowered in this behalf by the Local Government" the words "or Sub-divisional Magistrate, or a Magistrate of the first class specially empowered in this behalf by the Local Government" shall be substituted.

6. In section 162 of the same Code the word "shall" shall be inserted before the words "be used".

7. In section 173 of the same Code, the following shall be substituted for the second paragraph, namely:—

"Where a superior officer of police has been appointed under section 158, the report shall, in any cases in which the Local Government by general or special order so directs, be submitted through that officer, and he may, pending the orders of the Magistrate, direct the officer in charge of the police-station to make further investigation"

8. In section 266 of the same Code, for the word and figures "section 307" the words and figures "sections 276 and 307" shall be substituted.

9. For the second paragraph of section 269 of the same Code the following shall be substituted, namely:—

"When the accused is charged at the same trial with several offences of which some are and some are not triable by jury, he shall be tried by jury for such of those offences as are triable by jury, and by the Court of Session, with the aid of the jurors as assessors, for such of them as are not triable by jury."

10. For section 398 of the same Code the following shall be substituted, namely:—

"398. (1) Nothing in section 396 or section 397 shall be held to excuse any person from any part of the punishment to which he is liable upon his former or subsequent conviction.

(2) When an award of imprisonment in default of payment of a fine is annexed to a substantive sentence of imprisonment, or to a sentence of transportation or penal servitude for an offence punishable with imprisonment, and the person undergoing the sentence is after its execution to undergo a further substantive sentence, or further substantive sentences, of imprisonment, transportation or penal servitude, effect shall not be given to the award of imprisonment in default of payment of the fine until the person has undergone the further sentence or sentences."

11. (1) For the third paragraph of section 401 of the same Code the following shall be substituted, namely:—

"If any condition on which a sentence has been suspended or remitted is, in the opinion of



the Governor General in Council or of the Local Government, as the case may be, not fulfilled, the Governor General in Council or the Local Government may cancel the suspension or remission, and thereupon the person in whose favour the sentence has been suspended or remitted may, if at large, be arrested by any Police-officer without warrant and remanded to undergo the unexpired portion of the sentence."

(2) After the third paragraph of the same section the following shall be inserted, namely:—

"The condition on which a sentence is suspended or remitted under this section may be one to be fulfilled by the person in whose favour the sentence is suspended or remitted, or one independent of his will."

12. After section 475 of the same Code the following sections shall be inserted, namely:—

"475A. The Governor General in Council may direct that any person whom the Local Government has ordered under this chapter to be confined in a lunatic asylum, jail or other place of safe custody, shall be removed from the place where he is confined to any lunatic asylum, jail or other place of safe custody in British India."

"475B. The Local Government may empower the officer in charge of the jail in which a person is confined under the provisions of section 466 or section 471 to discharge all or any of the functions of the Inspector General of Prisons under section 472, section 473 or section 474."

13. (1) For the first sentence of section 495 of the same Code the following shall be substituted, namely:—

"Any Magistrate inquiring into or trying any case may permit the prosecution to be conducted by any person other than an officer of police below a rank to be prescribed by the Local Government in this behalf with the previous sanction of the Governor General in Council."

(2) After the last sentence of the same section the following shall be added, namely:—

"An officer of police shall not be permitted to conduct the prosecution if he has taken any part in the investigation into the offence with respect to which the accused is being prosecuted."

14. In section 510 of the same Code, for the word "the" before the words "Chemical Examiner" where those words first occur, the word "any" shall be substituted.

15. After section 541 of the same Code the following shall be inserted, namely:—

"541A. (1) If any person liable to be imprisoned or committed to custody under this Code is in confinement in a civil jail, the Court or Magistrate ordering the imprisonment or committal may direct that the person be removed to a criminal jail."

"(2) When a person is removed to a criminal jail under sub-section (1), he shall, on being released therefrom, be sent back to the civil jail, unless either—

"(a) three years have elapsed since he was removed to the criminal jail, in which case he shall be deemed to have been discharged from the civil jail under section 342 of the Code of Civil Procedure; or

"(b) the Court which ordered his imprisonment in the civil jail has certified to the officer in charge of the criminal jail that he is entitled to be discharged under section 341 of the Code of Civil Procedure."

16. After section 558 of the same Code the following section shall be added, namely:—

"559. A public servant having any duty to perform in connection with the sale of any property under this Code shall not purchase or bid for the property."

17. In Schedule II of the same Code, between the two lines of entries against section 211 of the Indian Penal Code the following shall be inserted, namely:—

Column 2.	Column 3.	Column 4.	Column 5.	Column 6.	Column 7.	Column 8.
"If offence charged be punishable with imprisonment for seven years."	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for seven years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class."

18. In the same Schedule, for section 225A and the line of entries against that section the following shall be substituted, namely:—

Column 1.	Column 2.	Column 3.	Column 4.	Column 5.	Column 6.	Column 7.	Column 8.
"225A"	Omission to apprehend, or sufferance of escape, on part of public servant in cases not otherwise provided for—	(a) in case of intentional omission with or sufferance.	Shall not arrest without warrant.	Ditto	Bailable	Ditto	Imprisonment of either description for three years, or fine, or both, or the first class. Presidency Magistrate or Magistrate of the first or second class."
	(b) in case of negligent omission or sufferance.	Ditto	Summons.	Ditto	Ditto	Simple imprisonment for two years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class. Ditto."
"225B"	Resistance or obstruction to lawful apprehension, or escape, in cases not otherwise provided for.	May arrest without warrant.	Warrant	Ditto	Ditto	Imprisonment of either description for six months, or fine, or both.	

19. In the part of Schedule III of the same Code entitled "*IV.—Ordinary Powers of a Sub-divisional Magistrate*," the following shall be inserted after the second article, namely:—

"(2A) Power to require security for good behaviour, section 110."

*Bombay District Police Act, 1867.*

20. The last nine words of section 23 of the Bombay District Police Act, 1867, are hereby repealed.

*Indian Penal Code.*

21. (1) In the second clause of section 40 of the Indian Penal Code, between the figures "66" and "71" the figures "67" shall be inserted.

(2) In the second clause of section 64 of the same Code, after the word "punishable" the words "with imprisonment or fine, or" shall be inserted.

22. In section 75 of the same Code, for the words "or to double the amount of punishment" to the end of the section, the following shall be substituted, namely:—

"or to imprisonment of either description for a term which may extend to ten years."

23. After the first paragraph of section 216 of the same Code the following shall be inserted, namely:—

"'Offence' in this section includes also any act or omission of which a person is alleged to have been guilty out of British India which, if he had been guilty of it in British India, would have been punishable as an offence, and for which he is, under any law relating to extradition, or under the Fugitive Offenders Act, 1881, or otherwise, liable to be apprehended or detained in custody in British India; and every such act or omission shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in British India."

24. (1) For section 225A of the same Code the following sections shall be substituted, namely:—

"225A. Whoever, being a public servant legally bound as such public servant to apprehend, or to keep in confinement, any person in any case not provided for in section 221, section 222 or section 223, or in any other law for the time being in force, omits to apprehend that person or suffers him to escape from confinement, shall be punished—

"(a). if he does so intentionally, with imprisonment of either description for a term

which may extend to three years, or with fine, or with both; and

"(b) if he does so negligently, with simple imprisonment for a term which may extend to two years, or with fine, or with both.

"225B. Whoever, in any case not provided for in section 224 or section 225 or in any other law for the time being in force, intentionally offers any resistance or illegal obstruction to the lawful apprehension of himself or of any other person, or escapes or attempts to escape from any custody in which he is lawfully detained, or rescues or attempts to rescue any other person from any custody in which that person is lawfully detained, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both."

(2) Section 651 of the Code of Civil Procedure XIV of 1882 is hereby repealed.

*Prisoners' Act, 1871.*

25. For sections 30, 31 and 32 of the Prisoners' Act, 1871, the following shall be substituted, namely:—

"30. When any person is, or has been, sentenced to imprisonment by any Court, or, in default of giving security for keeping the peace or maintaining good behaviour, has been committed to, or is detained in, prison under section 123 of the Code of Criminal Procedure, 1882, the Local Government, or (subject to its orders and under its control) the Inspector General of Prisons, may order his removal during the period for which he has been sentenced to imprisonment or the security has been ordered to be given, as the case may be, from the jail or place in which he is confined to any other jail or place of imprisonment within the territories subject to the same Local Government.

"31. (1) Whenever it appears to the Local Government that any person detained or imprisoned under any order or sentence of any Magistrate or Court is of unsound mind, that Government, by a warrant setting forth the grounds of belief that the person is of unsound mind, may order his removal to a lunatic asylum or other place of safe custody within the territories subject to the same Local Government, there to be kept and treated as the Local Government directs during the remainder of the term for which he has been ordered or sentenced to be detained or imprisoned, or, if on the expiration of that term it is certified by a medical officer that it is necessary for the safety of the prisoner or others that he should be further detained under medical care or treatment, then until he is discharged according to law.



"(2) When it appears to the Local Government that the prisoner has become of sound mind, that Government, by a warrant directed to the person having charge of the prisoner, shall, if the prisoner is still liable to be kept in custody, remand him to the prison from which he was removed or to another prison within the territories subject to the same Local Government, or, if the prisoner is no longer liable to be kept in custody, order him to be discharged.

"(3) The provisions of section 9 of Act XXXVI of 1858 (*relating to Lunatic Asylums*) shall apply to every person confined in a lunatic asylum under sub-section (1) after the expiration of the term for which he was ordered or sentenced to be detained or imprisoned; and the time during which a prisoner is confined in a lunatic asylum under that sub-section shall be reckoned as part of the term of detention or imprisonment which he may have been ordered or sentenced by the Magistrate or Court to undergo.

"(4) In any case in which a Local Government is competent under sub-section (1) to order the removal of a prisoner to a lunatic asylum or other

place of safe custody within the territories subject to the same Local Government, the Governor General in Council may order his removal to any lunatic asylum or other place of safe custody in any part of British India; and the provisions of this section respecting the custody, detention, remand and discharge of a prisoner removed by order of a Local Government shall, so far as they can be made applicable, apply to a prisoner removed by order of the Governor General in Council.

"32. When any person is, or has been, sentenced to imprisonment by any Court, or, in default of giving security for maintaining good behaviour, has been committed to, or is detained in, prison under section 123 of the Code of Criminal Procedure, 1882, the Governor General in Council may order his removal during the period for which he has been sentenced to imprisonment, or the security has been ordered to be given, as the case may be, from the jail or place in which he is confined to any other jail or place of imprisonment in British India."

S. HARVEY JAMES,

*Offg. Secy. to the Government of India.*

The following Report of the Select Committee on the Bill to amend the Code of Criminal Procedure, 1882, the Bombay District Police Act, 1867, the Indian Penal Code and the Prisoners' Act, 1871, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 5th March, 1886:—

### LEGISLATIVE DEPARTMENT.

WE, the undersigned, Members of the Select Committee to which the Bill to amend the

- From Mr. P. R. Desai, Pleader, District Court, Satara, dated 27th August, 1885 [Paper No. 1].
- From Mr. Nowrojee Ardeser, Pleader, District Court, Broach, dated 31st August, 1885 [Paper No. 2].
- From Mr. Sorabshah Dadabhai Monsiffu, No. 383, dated 5th September, 1885 [Paper No. 3].
- From Secretary for Berar to Resident, Hyderabad, No. 357G, dated 16th September, 1885 [Paper No. 4].
- From Secretary to Chief Commissioner, Coorg, No. 1103—142, dated 19th September, 1885 [Paper No. 5].
- From Chief Commissioner, Ajmer-Merwara, No. 1033, dated 22nd September, 1885 [Paper No. 6].
- From Officiating Secretary to Chief Commissioner, Assam, No. 1717, dated 21st September, 1885 [Paper No. 7].
- From Officiating Secretary to Chief Commissioner, Central Provinces, No. 3684—179, dated 22nd September, 1885 [Paper No. 8].
- From Chief Secretary to Government, Madras, No. 2429, dated 14th September, 1885, and enclosures [Papers No. 9].
- From Secretary to Government, North-Western Provinces and Oudh, No. 1861—VI-395-21, dated 10th October, 1885, and enclosures [Papers No. 10].
- From Chief Secretary to Government, Madras, No. 2647, dated 30th September, 1885, and enclosures [Papers No. 11].
- Supplementary Memorandum of Suggestions by Mr. P. R. Desai, Pleader, District Court, Satara, dated 24th October, 1885 [Paper No. 12].
- From Mr. P. V. Krishnaswami Ayer, First Grade Pleader, Trichinopoly, No. 388, dated 29th November, 1885 [Paper No. 13].
- From Officiating Secretary to Chief Commissioner, British Burma, No. 137—30L, dated 8th October, 1885, and enclosure [Papers No. 14].
- From Under-Secretary to Government, Bombay, No. 8050, dated 20th November, 1885, and enclosures [Papers No. 15].
- Suggestions by Mr. M. Subba Rao, First Grade Pleader, Mangalore, dated 5th December, 1885 [Paper No. 16].
- From Officiating Secretary to Government, Punjab, No. 1061, dated 18th December, 1885, and enclosures [Papers No. 17].
- From Registrar, High Court, Calcutta, No. 2414, dated 29th December, 1885, and enclosure [Papers No. 18].
- From Chief Secretary to Government, Bengal, No. 142J, dated 8th January, 1886, and enclosures [Papers No. 19].
- From Registrar, High Court, Calcutta, No. 274, dated 6th February, 1886 [Paper No. 20].

passing of the Code of Criminal Procedure, 1882. The papers laid before us contain numerous suggestions for other amendments in the Code. We have given our careful attention to these suggestions, but have come to the conclusion that, subject to a very few exceptions, it would not be expedient to act upon them without giving further notice to the public, and, for this reason, we have abstained from dealing with them in the present Bill. Among the sections to which our attention has been thus directed, and the propriety of amending which should, we

Code of Criminal Procedure, 1882, the Bombay District Police Act, 1867, the Indian Penal Code and the Prisoners' Act, 1871, was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

2. The object of the Bill was, as remarked in the Statement of Objects and Reasons, to correct certain minor defects of the criminal law which had been brought to the notice of the Government of India since the

think, be considered by the legislature on the next suitable opportunity, are section 107 (with advertence to the cases reported at I. L. R. 6 All. 26 and 11 Cal. 737), section 110 (with respect to habitual protectors or harbourers of thieves and habitual aiders in the concealment or disposal of stolen property), section 145 (with advertence to the case reported at I. L. R. 11 Cal. 413), section 9 or section 193 (with respect to the powers of Additional or Joint Sessions Judges), section 239 (with respect to the meaning of the words "in the same transaction"), section 348 (for applying the procedure of section 349 to habitual offenders forwarded to the Court of Session), and section 437 (for the purpose of reconciling the conflicting rulings as to the meaning of the words "further inquiry").

3. We will now notice in consecutive order such sections of the Bill as appear to us to call for remark.

4. *Sections 1 and 2.*—There are sections of the Indian Penal Code under which transportation for shorter terms than seven years may be awarded, but we are of opinion that any sentence of transportation passed by an Assistant Sessions Judge or District Magistrate should be subject to confirmation by the Sessions Judge.

5. *Section 3.*—We have added this section at the instance of the Government of Bengal. It appears to us that sections 55 and 56 of the Code should apply to the police in the towns of Calcutta and Bombay as they do to the police in the town of Madras and in the rest of British India.

6. *Section 4.*—The Chief Presidency Magistrate of Madras has pointed out that there is the same defect in section 514 as in section 88.

7. *Section 7.*—The practice of submitting final police reports through a superior officer of police depends on circumstances varying from season to season and from province to province and even from district to district, and should, in our opinion, be left to be regulated by the Local Government.

8. *Section 9.*—We have, on the recommendation of the Madras Government and High Court, amended section 269 of the Code so that, where an accused person is charged at the same trial with several offences of which some are and some are not triable by jury, he shall be tried by jury for such of those offences as are triable by jury, and by the Court of Session, with the aid of the jurors as assessors, for such of them as are not triable by jury.

9. *Section 10.*—The object of the amendment made by this section is to secure uniformity of practice with respect to the time when imprisonment in default of payment of fine is to be undergone where there are other substantive sentences of imprisonment to be undergone after the execution of the sentence to which the award of imprisonment in default of payment of fine was annexed.

10. *Section 11.*—There has been some misunderstanding in regard to the proposed amendment of section 401. It was originally proposed to meet a technical difficulty arising out of the case of a prisoner who had become insane after his discharge, and it appears to us that in the case of political offenders it may be useful as enabling the Government to set them at large on the understanding that, if any movement with which they were connected revives, they will, in the interests of the public safety, be re-arrested and detained until either the movement again subsides or they complete their sentences, whichever event may first occur.

11. *Section 12.*—We have, on the recommendation of the Bombay Government, authorised Local Governments to empower officers in charge of jails to discharge certain functions of the Inspector General of Prisons. It is often impossible for the Inspector General punctually to discharge the functions personally.

12. *Section 13.*—Difficulty has been caused by the specification in the Code of the rank of the police-officer who may be permitted to conduct a prosecution. Inspectors are officers of different rank in different parts of the country. We have, therefore, left it to Local Governments to prescribe the rank with the previous sanction of the Governor General in Council, but we have provided that an officer of police shall not be permitted to conduct the prosecution if he has taken any part in the investigation into the offence with respect to which the accused is being prosecuted.

13. *Section 16.*—A case which has recently occurred in the Bombay Presidency has suggested the introduction into the Code of Criminal Procedure of a section on the lines of section 292 of the Code of Civil Procedure.

14. *Section 17.*—This section in the Bill has been misunderstood. In Schedule II to the Code of Criminal Procedure as it now stands, the punishment for making a false charge of an offence punishable with imprisonment for a term of seven years appears as imprisonment for two years only, whereas the punishment may under the Indian Penal Code be imprisonment extending to seven years.

15. *Section 21.*—The object of this section is to make the provisions of section 67 of the Indian Penal Code applicable to all fines imposed under any law, and to make it clear that section 64 applies to offences punishable with imprisonment or fine as well as to offences punishable with both imprisonment and fine.

16. *Section 22.*—We agree with the Government of the North-Western Provinces and Oudh, the High Court at Madras and the other authorities who have directed attention to section 75 of the Indian Penal Code, in considering that the alternative penalties prescribed by the section must often be either inadequate or excessive, and that a wider discretion should be given to the Courts. We have provided therefore that on repeated conviction of an offence



punishable under Chapter XII or Chapter XVII of the Indian Penal Code the offender shall be subject to transportation for life or, in the discretion of the Court, to imprisonment for any term not exceeding ten years.

17. *Section 23.*—At present there is no provision of law for the punishment of a person who, knowing that a warrant has been issued by a Magistrate for the apprehension of a foreign subject under the Foreign Jurisdiction and Extradition Act, 1879, harbours that subject. The inconvenience resulting from the absence of such a provision has been pointed out by the Government of the North-Western Provinces and Oudh, and ought in our opinion to be removed.

18. *Section 24.*—We have added a section suggested by the case reported at I. L. R. 12 Cal. 190.

19. *Section 25.*—We have proposed to re-enact in an amended form the whole of the three sections of the Prisoners' Act, 1871, relating to the removal of prisoners, instead of merely patching the existing sections.

20. The publication ordered by the Council has been made as follows:—

*In English.*

<i>Gazette.</i>	<i>Date.</i>
Gazette of India ... ..	25th July, and 1st and 8th August, 1885.
Fort Saint George Gazette ... ..	14th August, 1885.
Bombay Government Gazette ... ..	30th July, and 6th and 13th August, 1885.
Calcutta Gazette ... ..	5th, 12th and 19th August, 1885.
North-Western Provinces and Oudh Government Gazette... ..	1st, 8th and 15th August, 1885.
Punjab Government Gazette ... ..	30th July, and 6th and 13th August, 1885.
Central Provinces Gazette ... ..	1st, 8th and 15th August, 1885.
British Burma Gazette ... ..	15th, 22nd and 29th August, 1885.
Assam Gazette ... ..	15th, 22nd and 29th August, 1885.
Coorg District Gazette ... ..	1st September, 1885.

*In the Vernaculars.*

<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Madras ... ..	Tamil ... ..	23rd October, 1885.
	Telegu ... ..	25th September, 1885.
	Hindustani ... ..	3rd October, 1885.
Bombay ... ..	Maráthi... ..	} 27th August, 1885.
	Gujaráthi ... ..	
	Kanarese ... ..	
Bengal ... ..	Bengali ... ..	22nd and 29th September, and 6th October, 1885.
	Hindi ... ..	13th, 20th and 27th October, 1885.
	Uriya ... ..	15th, 22nd and 29th October, 1885.
North-Western Provinces and Oudh... ..	Urdu ... ..	29th August, and 5th and 12th September, 1885.
Punjab ... ..	Urdu ... ..	27th August, 1885.
Central Provinces ... ..	Hindi ... ..	5th, 12th and 19th September, 1885.
	Maráthi... ..	12th, 19th and 26th September, 1885.
British Burma ... ..	Burmese ... ..	12th, 19th and 26th September, 1885.

21. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

C. P. ILBERT.  
S. C. BAYLEY.  
W. W. HUNTER.  
G. H. P. EVANS.\*  
PEÁRI MOHAN MUKERJI.  
H. ST.A. GOODRICH.  
J. W. QUINTON.  
V. N. MANDLIK.

*The 5th March, 1886.*

\* I much doubt the advisability of amending section 107 in the direction suggested.

S. HARVEY JAMES,

*Offg. Secretary to the Government of India.*

## GOVERNMENT OF INDIA.

## LEGISLATIVE DEPARTMENT.

[ First publication. ]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 12th March, 1886, and is hereby promulgated for general information:—

ACT NO. XI OF 1886.

THE INDIAN TRAMWAYS ACT,  
1886.

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*An Act to facilitate the construction and to regulate the working of Tramways.*

WHEREAS it is expedient to facilitate the construction and to regulate the working of tramways; It is hereby enacted as follows:—

*Preliminary.*

Short title and commencement. 1. (1) This Act may be called the Indian Tramways Act, 1886; and

(2) It shall come into force at once.

Local extent. 2. (1) It extends in the first instance to the whole of British India, except the territories administered by the Governor of Fort Saint George in Council, the Governor of Bombay in Council and the Lieutenant-Governor of Bengal.

(2) But the Governor of Fort Saint George in Council, the Governor of Bombay in Council or the Lieutenant-Governor of Bengal may, by notification in the official Gazette, extend this Act to the whole or any part of the territories under his administration.

Definitions. 3. In this Act, unless there is something repugnant in the subject or context,—

(1) "local authority" means a municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund:

(2) "road" means the way of a road, street, thoroughfare, passage or place along or across which a tramway authorised under this Act is, or is intended to be, laid, and includes the surface-soil and sub-soil of a road, and the footway, berms, drains and ditches of a road, and any bridge, culvert or causeway forming part of a road:

(3) "road-authority", in relation to a road, means—

(a) if a local authority maintains and repairs the road, then that authority;

(b) if a local authority does not maintain and repair the road, and the road is neither vested in Her Majesty nor maintained and repaired by the Government, then the person in whom the road is vested; and

(c) if a local authority does not maintain and repair the road, and the road is vested in Her Majesty or maintained and repaired by the Government, then the Local Government:

(4) "circle", in relation to a local authority or road-authority, means the area within the control of that authority:

(5) "tramway" means a tramway, or any part of a tramway, or any siding, turnout, connection, line or track belonging to a tramway:

(6) "order" means an order authorising the construction of a tramway under this Act, and includes a further order substituted for, or amending, extending or varying, that order:

(7) "promoter" means a local authority or person in whose favour an order has been made, and includes a local authority or person on whom the rights and liabilities conferred and imposed on the promoter by this Act and by the order and any rules made under this Act as to the construction, maintenance and use of the tramway, have devolved:

(8) "undertaking" includes all moveable and immoveable property of the promoter suitable to and used by him for the purposes of the tramway:

(9) "carriage", in the case of a tramway on which steam-power or any other mechanical power is used, includes an engine worked on the tramway for the purpose of producing that power:

(10) "toll" includes any charge leviable in respect of the use of a tramway:

(11) "lessee" means a person to whom a lease has been granted of the right of user of a tramway and of demanding and taking the authorised tolls:

(12) "District Magistrate" includes an officer empowered by the Local Government by name or by virtue of his office to discharge within any local area all or any of the functions of a District Magistrate under this Act:

(13) "District Court" means a principal Civil Court of original jurisdiction, and includes a High Court having ordinary original civil jurisdiction:

(14) "Collector" means the chief officer in charge of the revenue-administration of a district, and includes an officer empowered by the Local Government by name or by virtue of his office to discharge within any local area the functions of a Collector under this Act: and

(15) "prescribed" means prescribed by rules made by the Local Government under this Act.

*Orders authorising the Construction of Tramways.*

4. (1) The Local Government may make an Application for and order authorising the consent necessary to construction of a tramway in a making of order. circle on application made—

(a) by the local authority of the circle with the consent of the road-authority of any road or part of a road which is to be traversed by the tramway and of which the local authority is not itself the road-authority; or



*The Indian Tramways Act, 1886.**(Orders authorising the Construction of Tramways.—Sections 5-7.)*

- (b) by any person with the consent of the local authority of the circle, and of the road-authority of any road or part of a road which is to be traversed by the tramway and of which the local authority is not the road-authority :

Provided that, if any part of the proposed tramway is to traverse land which is not included within the limits of a municipality or of a cantonment, the Local Government shall not make the order without the previous sanction of the Governor General in Council.

(2) A local authority shall not make an application for an order, or be deemed to consent to an application being made by any person for an order, unless the making of the application or the giving of the consent has been approved by the local authority in manner prescribed.

5. When it is proposed to lay a tramway in two or more circles, and a local authority or road-authority having control in either or any of the circles does not consent thereto, or attaches conditions to its consent, the Local Government may, nevertheless, make an order authorising the construction of the tramway in the circle, or by the order impose on the promoter any conditions which it deems fit, if, after considering the reasons of the authority for withholding its consent or attaching the conditions thereto, it is satisfied that the construction of the tramway in the circle is expedient, or, as the case may be, that the conditions attached by the authority to its consent ought not to be imposed.

6. (1) The Local Government on receiving an application shall consider it, and, if satisfied as to the propriety of proceeding thereon, publish in the official Gazette, and in such other manner as it deems sufficient for giving information to persons interested, a draft of a proposed order authorising the construction of the tramway.

(2) A notice shall be published with the draft stating that any objection or suggestion which any person may desire to make with respect to the proposed order will, if submitted to the Local Government on or before a date to be specified in the notice, be received and considered.

(3) If, after considering any objections or suggestions which may have been made with respect to the draft on or before the date so specified, the Local Government is of opinion that the application should be granted, with or without addition or modification, or subject or not to any restriction or condition, it may make an order accordingly.

(4) Every order authorising the construction of a tramway shall be published in the official

Gazette in English, and in the other prescribed language or languages, if any; and that publication shall be conclusive proof that the order has been made as required by this section.

7. (1) An order made under section 6 shall empower the promoter therein specified to construct and maintain the tramway therein described in the manner therein provided, and shall specify the time within which the tramway shall be commenced and the time within which it shall be completed and opened for public traffic.

(2) The order may also provide, in manner consistent with this Act, for all or any of the following, among other matters, that is to say :—

- (a) a period before the expiration of which the tramway shall not be commenced, and the conditions subject to which the local authority, when it is not itself the promoter, may, within that period, elect to be substituted in the place of the promoter in respect of the undertaking or of so much thereof as is within its circle; and the limits of time within which, and the terms upon which, the local authority may, after the tramway has been constructed, require the promoter to sell to it the undertaking or so much thereof as is within its circle;
- (b) the acquisition by the promoter of land for the purposes of the tramway, and the disposal by him of land which has been acquired but is no longer required for those purposes;
- (c) the conditions subject to which roads may be opened and broken up for the purposes of the construction or maintenance of the tramway or any part thereof, and the method of, and materials to be used in, the re-instating of the roads, and the approval of the method and materials by the Local Government or the road-authority before the commencement of the work;
- (d) the conditions on which the tramway may be constructed over a bridge or across a railway or tramway when the carriageway over the bridge is to form part of the tramway or when the tramway is to cross a railway or another tramway on the level;
- (e) the space which shall ordinarily intervene between the outside of the carriageway on either side of a road whereon the tramway is to be constructed and the nearest rail of the tramway, and the conditions on which a smaller space may be permitted;
- (f) the gauge of the tramway; the rails to be used, and the mode in which

*The Indian Tramways Act, 1886.**(Orders authorising the Construction of Tramways.—Section 7.)*

- and the level at which, they shall be laid and maintained; and the adoption and application by the promoter of such improvements in the rails, and in their situation, and in the sub-structure upon which they rest, as the Local Government may from time to time require;
- (g) the portion of the road or roads traversed by the tramway to be kept in repair by the promoter; the maintenance by the promoter to the satisfaction of the Local Government or the road-authority, or both, of that portion of the road or roads; and the liability of the promoter, on the requisition of the Local Government, from time to time to adopt and apply such improvements in the tramway as the Local Government may consider necessary or desirable for the safety or convenience of the public, and to alter the position or level of the tramway to suit future alterations in the road or roads;
- (h) the application of material excavated by the promoter in the construction or maintenance of the tramway;
- (i) the provision of such crossings, passing-places, sidings, junctions and other works, in addition to those specified in or authorised by the order, as may from time to time be necessary or convenient to the efficient working of the tramway;
- (j) the powers which may from time to time be exercised by the Local Government, the local authority, the road-authority or any person in respect of sewers, drains, telegraph-lines, gas-pipes, water-pipes or other things in or on land occupied by the tramway; the notice (if any) to be given of the intended exercise of those powers; the manner in which the powers shall be exercised; and the extent to which the tramway and the traffic thereon may be interfered with in the exercise thereof;
- (k) the conditions subject to which the promoter may from time to time interfere with, or alter or require the alteration of the position of, drains (not being sewers or main drains), telegraph-lines, gas-pipes, water-pipes or other things as aforesaid;
- (l) the provision of a temporary tramway in place of a part of a tramway which has been removed, or of which the use has been discontinued, by reason of the execution of any work affecting a road along which the part of the tramway was laid, or by reason of the use of the road being interrupted by floods or other cause;
- (m) the motive power to be used on the tramway, and the conditions on which steam-power or any other mechanical power may be used;
- (n) the nature, dimensions, fittings, appliances and apparatus of the carriages to be used on the tramway, and the inspection and examination thereof by officers of the Local Government or the local authority, and the liability of the promoter or lessee, on the requisition of the Local Government, from time to time, to adopt and apply such improvements in the carriages, and in the fittings, appliances and apparatus, as the Local Government may consider necessary or desirable for the safety or convenience of the public;
- (o) the traffic which may be carried on the tramway, the traffic which the promoter or lessee shall be bound to carry, and the traffic which he may refuse to carry; the tolls to be leviable by the promoter or lessee, and the periodical revision thereof by the Local Government; and the regulation of the traffic and of the levy of the tolls;
- (p) the use of the tramway free of toll by the local authority, with its own carriages, for specified purposes, during specified hours, with power to the local authority to make such sidings and other works as may be necessary for communication between its premises and the tramway;
- (q) the conditions subject to which the promoter may transfer the undertaking, or any part thereof, by sale, mortgage, lease, exchange or otherwise; and the conditions subject to which the local authority may be the transferee;
- (r) the performance by the Local Government or by the local authority or road-authority of any work required by the Act or the order to be done by the promoter; and
- (s) the penalty to be incurred by the promoter or lessee for failure to observe any condition or direction contained in the order, and the application of the penalty when recovered.
- (3) The Local Government may, in providing in the order for the acquisition of land for the purposes of a tramway of which the promoter is not a company, direct that land may be acquired for the promoter under the provisions of the Land Acquisition Act, 1870, in the same manner and on the same conditions as it might be acquired for the purposes of the tramway if a company were the promoter.
- (4) The order shall imply the condition—
- (a) in the case of a tramway of which a local authority is the promoter, that a lease thereof shall be granted only in manner by this Act provided; and
- (b) in the case of a tramway of which a local authority is not the promoter, that a lease thereof shall be only of the right of user



*The Indian Tramways Act, 1886.**(Orders authorising the Construction of Tramways.—Construction and Maintenance of Tramways.—Traffic on Tramways.—Sections 8-14.)*

and of demanding and taking the authorised tolls, and shall not confer or impose on the lessee any of the powers or duties of the promoter in respect of the construction or maintenance of the tramway.

8. (1) The Local Government may, on the application of the promoter, revoke, amend, extend or vary the order by a further order.

(2) An application for a further order shall be made in the same manner and subject to the same conditions as an application for an order.

(3) The Local Government may, in its discretion, either grant or reject the application.

(4) If it grants the application, it shall make the further order in the same manner as an order, except that no addition to, or modification of, the rights, powers and authorities asked for in the application, or restriction or condition with respect thereto, shall be made or imposed by the further order without the consent in writing of the promoter.

9. (1) Subject to, and in accordance with, the provisions of this Act, the Local Government may, on a joint application, or on two or more separate applications, make an order empowering two or more local authorities, respectively, jointly to construct the whole, or separately to construct parts, of a tramway, and jointly or separately to own the whole or parts thereof.

(2) All the provisions of this Act which relate to the construction of tramways shall extend and apply to the construction of the whole and the separate parts of the tramway, and the form of the order may be adapted to the circumstances of the case.

10. (1) If a promoter authorised by an order to construct a tramway—

- (a) does not within the time specified in the order substantially commence the construction of the tramway, or
- (b) having commenced the construction, suspends it without a reason sufficient in the opinion of the Local Government to warrant the suspension, or
- (c) does not within the time specified in the order complete the tramway and open it for public traffic,

the following consequences shall ensue:—

- (i) the powers given by the order to the promoter for constructing the tramway and otherwise in relation thereto shall, unless the Local Government, by special direction in writing, prolongs the time or condones the suspension, cease to be exercised except as to so much of the tramway as is then completed;

(ii) as to so much of the tramway as is then completed, the Local Government may either permit, or refuse to permit, the powers given by the order to continue;

(iii) if the Local Government refuses to permit the powers to continue, then so much of the tramway as is then completed may be dealt with, under the provisions of this Act relating to the discontinuance of tramways, as a tramway of the working whereof the discontinuance has been proved to the satisfaction of the Local Government.

(2) A notification published by the Local Government in the official Gazette to the effect that on a date specified in the notification the construction of a tramway had not been substantially commenced or a tramway had not been completed and opened for public traffic, or that the construction of a tramway had been suspended without sufficient reason, shall, for the purposes of this section, be conclusive proof of the matter stated therein.

*Construction and Maintenance of Tramways.*

11. A tramway shall be constructed and maintained in the manner provided by the order.

12. A tramway, or portion or extension of, or addition to, a tramway, shall not be opened for public traffic until an engineer appointed in this behalf by the Local Government has inspected it and certified it to be fit for such traffic.

13. Subject to the provisions of any order for the time being in force with respect to the matters mentioned in section 7, sub-section (2), clause (g), the road-authority and the promoter may from time to time enter into agreements as to the keeping in repair of the whole or a part of a road traversed by a tramway, and as to the proportion to be paid by either of them of the expense of keeping the road or part in repair.

*Traffic on Tramways.*

14. (1) The promoter of a tramway shall, subject to the provisions of sub-section (2) and to the other provisions of this Act and of the order, have the exclusive use of the tramway for carriages with flange-wheels or other wheels suitable to run on the rail described in the order as the rail to be used on the tramway:

Provided that nothing in this Act or in the order or any rule made under this Act shall affect the right of any person authorised to use a tramway or railway to pass across a tramway constructed under this Act with carriages having wheels suitable to run on the rail thereof.



*The Indian Tramways Act, 1886.**(Traffic on Tramways.—Licenses to use Tramways.—Secs. 15-18.)*

(2) The public shall have a right to pass along or across any part of a road along or across which a tramway is constructed, whether on or off the tramway, with carriages not having flange-wheels or other wheels suitable to run on the rail of the tramway: Provided—

- (a) that this sub-section shall not apply where the tramway is constructed on land the right to the exclusive possession of which has been acquired by the promoter; and
- (b) that the Local Government may by an order authorise the construction of a tramway on any part of a road with rails raised above the surface of the road, if it is satisfied that the convenience of the public will not be injuriously affected thereby.

15. (1) The promoter or lessee may demand and take, in respect of the tramway, tolls not exceeding the limits specified in or determinable under the order, or, if the order contains no provision in this behalf, then such sums as may from time to time be fixed by the promoter or lessee with the previous sanction of the Local Government.

(2) A list of all the tolls authorised to be levied shall be exhibited, in such languages as the District Magistrate may direct, in a conspicuous place inside and outside each of the carriages used upon the tramway.

16. (1) A person shall not be entitled to carry Carriage of dangerous or to require to be carried, on ous or offensive goods. a tramway constructed under this Act, any goods of a dangerous or offensive nature.

(2) A person taking such goods with him on the tramway shall, before entering the carriage, give notice of their nature to the servant of the promoter or lessee in charge of the carriage.

(3) A person sending such goods by the tramway shall distinctly mark their nature on the outside of the package containing them, or otherwise give notice thereof in writing to the servant of the promoter or lessee with whom he leaves them for the purpose of their being sent by the tramway.

(4) Any servant of the promoter or lessee may refuse to carry upon the tramway a parcel which he suspects to contain goods of a dangerous or offensive nature, and, if any such parcel has been received for the purpose of being carried upon the tramway, may stop the transit thereof until he is satisfied as to the nature of its contents.

(5) Where a servant of the promoter or lessee refuses under sub-section (4) to carry a parcel which has been received for the purpose of being carried upon the tramway, he shall, as soon as may be, give notice of his refusal to the consignor or consignee if he refuses at a time when neither of them is present.

*Licenses to use Tramways.*

17. If, at any time after a tramway or part of a tramway has been for three years opened for public traffic in a circle, the local authority of the circle represents in writing to the Local Government that the public is deprived of the full benefit of the tramway or of the part thereof, the Local Government may, if after considering any statement which the promoter or lessee or both may desire to make, and after such further enquiry as it deems necessary, it is satisfied as to the truth of the representation, grant a license to any person to use the tramway conformably to this Act and to the order and the rules made under this Act, subject to the following provisions, namely:—

- (a) the license shall be for a period not less than one year or more than three years from the date of the license, but the Local Government may in its discretion renew it;
- (b) the license shall be to use the whole of the tramway for the time being opened for public traffic, or such part or parts of the tramway as the Local Government, having regard to the cause for granting the license, thinks fit;
- (c) the license shall specify the number of carriages which the licensee shall run upon the tramway, the mode in which, and times at which, the carriages shall be run, the tolls to be paid to the promoter or lessee by the licensee for the use of the tramway, and the tolls, being those for the time being leviable by the promoter or lessee, which the licensee may demand and take for the use of his carriages;
- (d) the licensee and his officers and servants shall permit one person, duly authorised for that purpose by the promoter or lessee, to travel free of toll in or upon each carriage of the licensee run upon the tramway for the whole or any part of a journey;
- (e) any provision of this Act, or of the order or rules made under this Act, relating to the functions of a servant of a promoter or lessee shall be construed, so far as may be, as referring to a servant of the licensee; and
- (f) the Local Government may revoke, alter or modify the license for any cause sufficient in its opinion to warrant the revocation, alteration or modification thereof.

18. A licensee shall, on demand, give to an officer or servant authorised by the promoter or lessee an account in writing, signed by the licensee, of the exact number of passengers, or number or quantity of goods, conveyed by any and every carriage used by him on the tramway.

*The Indian Tramways Act, 1886.**(Discontinuance of Tramways.—Insolvency of Promoter.—Sections 19-21)  
(Purchase of Tramways.—Section 22.)**Discontinuance of Tramways.*

19. If it is proved to the satisfaction of the Local Government, at any time after the opening of a tramway for public traffic, that the working of the tramway, or any part thereof, has been practically discontinued, for the space of three months, without a reason sufficient, in the opinion of the Local Government, to warrant the discontinuance, the Local Government, if it thinks fit, may, by notification in the official Gazette, declare that the powers of the promoter and of the lessee, if any, in respect of the tramway or the part thereof of which the working has been so discontinued, shall, from the date of the notification, be at an end; and thereupon the said powers shall cease and determine, except in so far as they may be purchased by a local authority in manner by this Act provided.

20. (1) Where a notification has been published under section 19, the road-authority may, at any time after the expiration of two months from the date of the notification, remove the tramway or part of the tramway of which the working has been so discontinued, and use the materials thereof in re-instating the road.

(2) The promoter shall pay to the road-authority the cost incurred by that authority in removing the tramway or the part thereof and in re-instating the road.

(3) The cost shall be certified by an officer of the road-authority, and his certificate, countersigned by the District Magistrate, shall be conclusive proof as to the cost incurred.

(4) If the promoter does not pay the amount so certified within one month after the delivery to him of the certificate or of a copy thereof, the road-authority may, without any previous notice to the promoter and without prejudice to any other remedy which it may have for the recovery of the amount, sell and dispose of such materials of the tramway or part thereof removed as it has not used in re-instating the road, either by public auction or by private sale, and for such sum or sums, and to such person or persons, as it thinks fit, and may, out of the proceeds of the sale, pay and reimburse itself the amount of the cost aforesaid and of the expenses of the sale, and shall pay over the residue (if any) of the proceeds of the sale to the promoter.

*Insolvency of Promoter.*

21. (1) If, at any time after the opening of a tramway in a circle for public traffic, it appears to the road-authority or local authority of the circle that the promoter of the tramway is insolvent, so that he is unable to maintain the tramway, or to work it with advantage to

the public, and either of those authorities makes a representation to that effect to the Local Government, the Local Government may, if after considering any statement which the promoter may desire to make, and after such further enquiry as it deems necessary, it is satisfied as to the truth of the representation, declare, by notification in the official Gazette, that the powers of the promoter shall, at the expiration of six months from the publication of the notification, be at an end; and the powers of the promoter shall cease and determine at the expiration of that period, except in so far as they may be purchased by a local authority in manner by this Act provided.

(2) Where a notification has been published under sub-section (1), the road-authority may, at any time after the expiration of six months from the date thereof, remove the tramway in the same manner, and subject to the same provisions as to the payment of the cost of the removal and to the same remedy for recovery of the cost, in every respect as in cases of removal under section 20.

*Purchase of Tramways.*

22. (1) Where the promoter of a tramway in a circle is not the local authority, the local authority, with the previous sanction of the Local Government, may—

- (a) within such limits of time as may be specified in this behalf in the order, or
- (b) if a time was not specified in the order, then within six months after the expiration of a period of twenty-one years from the date of the order, and within six months after the expiration of every subsequent period of seven years, or
- (c) within two months after the publication of a notification under section 19 or within six months after the publication of a notification under section 21,

by notice in writing, require the promoter to sell to the local authority his undertaking or the part thereof which is within the circle of the local authority; and thereupon the promoter shall sell the same upon the terms specified in the order, or, if the terms were not specified in the order, then upon the terms of paying the then value of the undertaking or of the part thereof, exclusive of any allowance for past or future profits of the undertaking or any compensation for compulsory sale or other consideration whatsoever.

(2) A requisition shall not be made under sub-section (1) unless the making thereof has been approved by the local authority in manner prescribed.

(3) When a sale has been made under this section, all the rights, powers and authorities of the promoter in respect of the undertaking or part



*The Indian Tramways Act, 1886.**(Working of Tramways owned by Local Authorities.—Rules.—  
Sections 23-24.)*

thereof sold, or, where a notification has been published under section 19 or section 21, all the rights, powers and authorities of the promoter previous to the publication of the notification in respect of the undertaking or part thereof sold, shall be transferred to the authority to whom the undertaking or part has been sold, and shall vest in, and may be exercised by, that authority in the same manner as if the tramway had been constructed by it under an order made under this Act.

(4) Subject to, and in accordance with, the preceding provisions of this section, two or more local authorities may jointly purchase an undertaking or so much thereof as is within their circles.

*Working of Tramways owned by Local Authorities.*

23. (1) When a local authority has under the authority of an order completed a tramway, or has under the provisions of this Act or of an order acquired possession of a tramway, it may, by a lease to be approved by the Local Government, let to any person the right of user of the tramway and of demanding and taking the authorised tolls.

(2) On the determination of a lease the local authority may from time to time let the right for such further term and on such conditions as the Local Government may approve.

(3) Every lease made under this section shall imply a condition of re-entry if at any time after the making thereof it is proved to the satisfaction of the Local Government that the lessee has practically discontinued the working of the tramway leased, or of any part thereof, for the space of one month without a reason sufficient, in the opinion of the Local Government, to warrant the discontinuance.

(4) Notice of the intention of the local authority to make a lease shall be given in manner prescribed.

(5) If the local authority cannot by means of a lease obtain what it deems to be a fair rent for the tramway, it may itself, with the previous sanction of the Local Government and for such term as the Local Government directs, place and run carriages upon the tramway, and demand and take the authorised tolls in respect of the use of the carriages.

*Rules.*

24. (1) In addition to any other power to make rules expressly or by implication conferred by this Act, the Local Government may make rules consistent with this Act—

(a) as to the form in which an application for an order shall be made;

(b) as to the costs to be paid by an applicant in respect of an order, and the time when, and the place where, those costs shall be paid;

(c) as to the payment of money or lodgment of securities, by way of deposit, by the applicant for an order before the order is published under section 6, sub-section (4), or a further order is made under section 8; the investment of money so paid; the disposal of interest or dividends from time to time accruing due on money or securities so paid, lodged or invested; the application of the money or securities or the produce thereof to the discharge of any liability incurred by the promoter; and the forfeiture, repayment or return of the money or securities;

(d) as to the plans and sections of any works to be deposited by applicants for orders or by promoters;

(e) for regulating the use of steam-power or any other mechanical power on a tramway;

(f) as to any matter specified in section 7, sub-section (2), clauses (c), (d), (e), (j) and (k), as a matter which may be provided for in an order, when that matter has not been so provided for, or has not, in the opinion of the Local Government, been effectually so provided for;

(g) as to the periodical submission, by promoters, lessees and licensees, of accounts of traffic and receipts to the Local Government or as that Government directs, and as to the forms in which those accounts are to be submitted;

(h) as to the accidents of which report is to be made to the Local Government or as that Government directs;

(i) as to any matter respecting which rules may be made under this section by a local authority or a promoter or lessee; and,

(j) generally, as to any other matter or thing in respect of which it may seem to the Local Government to be expedient to make rules for carrying out the purposes of this Act.

(2) A local authority may, from time to time, with the previous sanction of the Local Government, make rules consistent with this Act and with the order and any rules made by the Local Government under this Act for regulating—

(a) the rate of speed to be observed in travelling upon a tramway within the circle of the local authority;

(b) the use of animal power on the tramway

(c) the distances at which carriages using the tramway are to be allowed to follow one after the other;



*The Indian Tramways Act, 1886.*

(Rules.—Sections 25-26.—Offences.—Sections 27-29.)

- (d) the stopping of carriages using the tramway, and the notice to be given to the public of their approach;
- (e) the manner in which carriages using the tramway after sunset and before sunrise are to be lighted;
- (f) the traffic on roads along or across which the tramway is laid;
- (g) the number of passengers which may be carried in any carriage;
- (h) the licensing and control of drivers, conductors and other persons having charge of the carriages of the promoter or lessee or a licensee; and,
- (i) generally, the mode of use of the tramway.

(3) The promoter or lessee of a tramway may, from time to time, with the previous sanction of the Local Government, make rules consistent with this Act and with the order and any rules made under this Act—

- (a) for preventing the commission of any nuisance in or upon any carriage, or in or against any premises, belonging to him; and
- (b) for regulating the travelling in any carriage belonging to him.

(4) The Local Government may cancel any rule made by a local authority or by a promoter or lessee under this section.

25. The authority making any rule under section 24 may direct that a penalty by rule. breach of it shall be punishable with fine which may extend—

- (a) if the authority making the rule is the Local Government, to two hundred rupees, and
- (b) if that authority is a local authority or a promoter or lessee, to twenty rupees; and when the breach is a continuing breach, with a further fine which may extend—
- (c) if the authority making the rule is the Local Government, to fifty rupees, and
- (d) if that authority is a local authority or a promoter or lessee, to five rupees, for every day after the first during which the breach continues.

26. (1) Every authority having power to make rules under any section of this Act shall, before making the rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

(2) The publication shall be made, in the case of rules made by the Local Government, in such manner as may in its opinion be sufficient for giving information to persons interested, and, in the case of rules made by a local authority or by a promoter or lessee, in manner prescribed.

(3) There shall be published with the draft a notice specifying a date, not earlier than the expiration of one month after the date of publication, at or after which the draft will be taken into consideration.

(4) The authority shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(5) The publication in the official Gazette of a rule purporting to be made under this Act shall be conclusive proof that it has been duly made.

*Offences.*

Penalty for failure of promoter, lessee or licensee to comply with Act or order.

## 27. If a promoter—

- (a) constructs or maintains a tramway otherwise than in accordance with the order, or
- (b) opens the tramway for traffic, or permits it to be so opened, before it has been inspected and certified in manner required by section 12, or
- (c) fails to observe any requirement or condition of the order for neglect or breach whereof no penalty has been expressly provided in the order,

or if a promoter, lessee or licensee runs a carriage on a tramway otherwise than in accordance with the order,

he shall (without prejudice to the enforcement of specific performance of the requirements of this Act or of the order, or to any other remedy which may be obtained against him in a Court of Civil Judicature), on complaint made by the Local Government or by the local authority or road-authority or by the District Magistrate or, with the previous sanction of the District Magistrate, by any person injuriously affected by the act or omission, be punished with fine which may extend to two hundred rupees, and in the case of a continuing offence to a further fine which may extend to fifty rupees for every day after the first during which the offence continues to be committed.

## 28. If any person without lawful excuse, the

burden of proving which shall lie upon him, wilfully obstructs any person acting under the authority of the promoter in the lawful exercise of his powers in constructing or maintaining a tramway, or injures or destroys any mark made for the purpose of setting out the line of the tramway, he shall be punished with fine which may extend to fifty rupees.

## 29. If any person without lawful excuse, the

burden of proving which shall lie upon him, wilfully does any of the following things, namely:—

- (a) interferes with, removes or alters any part of a tramway constructed under

*The Indian Tramways Act, 1886.**(Offences.—Sections 30-34—Settlement of Differences.—Sections 3-35.)*

this Act, or of the works connected therewith, or

(b) places or throws upon or across any such tramway any wood, stone, refuse or other thing, or

(c) does anything in such a manner as to obstruct any carriage using any such tramway, or

(d) abets within the meaning of the Indian Penal Code the doing of, or attempts to do, anything mentioned in clause (a), clause (b) or clause (c),

he shall (without prejudice to any other remedy which may be obtained against him in a Court of Civil Judicature) be punished with fine which may extend to one hundred rupees.

**30.** If any person, except under a lease from, or by agreement with, the tramway promoter, or under license from the Local Government granted under this Act, uses on a tramway, otherwise than as permitted by section 14, a carriage having flange-wheels or other wheels suitable to run on the rail of the tramway, he shall be punished with fine which may extend to two hundred rupees.

**31. (1)** If any person travelling or having travelled in a carriage of the promoter or lessee or of a licensee evades or attempts to evade payment of toll, or if any person having paid toll for a certain distance wilfully proceeds in any such carriage beyond that distance and does not pay the additional toll for the additional distance or attempts to evade payment thereof, or if any person wilfully refuses or neglects on arriving at the point to which he has paid toll to quit the carriage, he shall be punished with fine which may extend to ten rupees.

(2) When a person commits an offence under this section and refuses on demand of a servant of the promoter, lessee or licensee to give his name and residence, or gives a name or residence which the servant has reason to believe to be false, he may be arrested and taken to the nearest police-station by the servant or any person whom the servant may call to his aid.

(3) When the person is taken to the police-station he shall with the least possible delay be forwarded to the nearest Magistrate, unless his true name and residence are ascertained, in which case he shall be released on his executing a bond for his appearance before a Magistrate if so required.

**32.** If any person takes or sends by a tramway any goods of a dangerous or offensive nature without giving the notice required by section 16, he shall be punished with fine which may extend to fifty rupees.

**33. (1)** If a licensee fails on demand to give the account mentioned in section 18, or, with intent to evade the payment of tolls, gives a false account when he is called upon to give an account under that section, he shall be punished with fine which may extend to fifty rupees.

(2) The fine shall be in addition to any tolls payable by the licensee to the promoter or lessee in respect of the passengers or goods conveyed by the carriage or carriages used by the licensee on the tramway.

**34.** Nothing in this Act shall prevent a person from being prosecuted under any other law for an act or omission which constitutes an offence against this Act or the rules made under it, or from being liable under that other law to any other or higher punishment or penalty than that provided by this Act or the rules made under it: Provided that a person shall not be punished twice for the same offence.

*Settlement of Differences.*

**35. (1)** If any difference arises between the promoter or lessee on the one hand and the Local Government, or the local authority, or the road-authority, or a person having the charge of any sewers, drains, telegraph-lines, gas-pipes, water-pipes or other things in or on land occupied by the tramway, on the other hand, with respect to any interference or control exercised or claimed to be exercised by, or on behalf of, either party by virtue of this or any other Act, or of the order or the rules made under this Act, or with respect to the propriety of, or the mode of, the execution of any work, or with respect to any compensation to be made by or to the promoter or lessee, or on the question whether any work is such as ought reasonably to satisfy the Local Government or the road-authority or both, or with respect to any other subject or thing regulated by, or comprised in, this Act or the order or the rules made under this Act, and not otherwise expressly provided for therein, the matter in difference shall, except where the parties elect to proceed under section 523 of the Code of Civil Procedure, be settled, on the application of either party, by a referee.

(2) Where the difference is—

(a) between the promoter or lessee on the one hand and the Local Government, either as such or as the road-authority, on the other, or

(b) between the promoter on the one hand and the local authority on the other, with respect to the sum to be paid by the local authority for an undertaking or part of an undertaking which that authority has required the promoter to sell under section 22,



*The Indian Tramways Act, 1886.**(Recovery of Tolls.—Sections 36-38—Savings.—Sections 39-41.)*

the referee shall be the District Court within the jurisdiction of which the tramway is situate, or, where the tramway is within the jurisdiction of more than one District Court, the District Court within the jurisdiction of which the greater part of the tramway is situate.

(5) In other cases the referee shall be appointed by the Local Government.

(4) Except where the referee is the District Court, the powers and procedure of the referee may be prescribed.

(5) In the case of a difference between a promoter on the one hand and a local authority on the other, with respect to the sum to be paid by the local authority for an undertaking or part of an undertaking which that authority has required the promoter to sell under section 22, an appeal shall lie to the High Court from the award of the referee as from an original decree of the District Court.

(6) In the case of every other difference the award of the referee shall be final.

*Recovery of Tolls.*

36. Any of the following moneys, namely, any

Recovery of moneys due from promoters and, in certain cases, from lessees.

rent due to a local authority from a lessee, any penalty recoverable from a promoter or lessee under an order, any sum payable by a promoter or lessee under an award of a referee, the cost of the performance under this Act by the Local Government or by a local authority or road-authority of any work required by this Act or by an order to be done by a promoter, and the cost incurred by a road-authority in removing a tramway and re-instating a road under this Act, may, without prejudice to any other remedy that the authority to which the money is due may have by suit or otherwise, be recovered by that authority, on application made in this behalf to the Collector, as if the sum due were an arrear of land-revenue due by the promoter or lessee or his surety (if any):

Provided that nothing in this section shall authorise the arrest of the promoter or lessee or his surety in execution of any process issued by the Collector.

37. (1) If a licensee fails to pay on demand

Recovery of tolls from licensees.

the tolls due for the use of a tramway, the promoter or lessee to whom the tolls are due may, without prejudice to the remedy which he may have by suit, apply to a Magistrate to recover the amount of the tolls, and the Magistrate may, after giving notice to the licensee if possible and allowing him an opportunity of being heard, proceed to recover the amount by distress and sale of any carriages or other moveable property of the licensee which may be found on the tramway or on premises connected therewith.

(2) When a licensee has failed to pay on demand the tolls due from him, the promoter or

lessee to whom the tolls are due may seize any carriage or other moveable property of the licensee on the tramway or on premises connected therewith, and detain the same for forty-eight hours unless the tolls are sooner paid.

(3) When application is made to a Magistrate under sub-section (1), he may make an interim order of distraint pending his final decision.

38. Any toll due to a promoter, lessee or licensee from a passenger may be

Recovery of tolls from passengers.

recovered either by suit or, on application to a Magistrate having jurisdiction within any local area in which any part of the tramway is laid, by distress and sale of any moveable property belonging to the passenger within the local limits of the jurisdiction of the Magistrate.

*Savings.*

39. (1) Notwithstanding anything contained in this Act, or in an order or

Promoter to have right of user only. any rule made under this Act, a promoter shall not acquire any right other than that of user only over a road along or across which he lays a tramway, nor shall anything contained in this Act, or in an order or any rule made under this Act, exempt the promoter of a tramway, or any other person using the tramway, from the payment of such charges as may lawfully be levied in respect of the use of a road or bridge along or across which the tramway is laid.

(2) The Local Government may, if it thinks fit, fix rates at which a promoter, lessee or licensee may compound for the charges payable in respect of the use of a road or bridge.

40. (1) Nothing in this Act, or in an order

Saving of power over roads traversed by tramways.

or any rule made under this Act, shall take away or abridge any power which a road-authority, local authority or other person has by law to break up, widen, alter, divert or improve a road, railroad or tramway along or across which a tramway is laid.

(2) The road-authority, local authority or other person executing any work referred to in sub-section (1) shall not be liable to pay to a promoter, lessee or licensee any compensation for injury done to a tramway by the execution of the work or for loss of traffic occasioned by the reasonable use of any power lawfully exercised for the execution thereof.

41. Nothing in this Act, or in an order or any

Saving of power of local authority and police to regulate traffic on roads.

rule made under this Act, shall affect the powers of a local authority or of a Magistrate or police-officer to regulate the passage of traffic along or across a road along or across which a tramway is laid; and the authority, Magistrate or officer aforesaid may exercise its or his powers as well on as off the tramway and with respect as well to the traffic

*The Indian Tramways Act, 1886.**(Supplemental Provisions.—Sections 42-50.)*

of a promoter, lessee or licensee as to the traffic of other perrons.

*Supplemental Provisions.*

42. A promoter, lessee or licensee shall be answerable for all injuries happening through his act or default, or through the act or default of any person in his employment, by reason or in consequence of any of his carriages or works, and shall save harmless all authorities and persons collectively and individually, and their officers and servants, from all damages and costs in respect of injuries so happening.

43. For the purposes of this Act want of funds shall not be deemed to be a sufficient reason for the suspension of the construction, or the discontinuance of the working, of a tramway by a promoter or lessee.

44. When a tramway is constructed under this Act within the limits of a municipality, the Local Government may exempt the animals, plant, rolling-stock, yards, workshops, engine-sheds and depôts of the promoter, lessee or licensee, for such period as it thinks fit, from all or any municipal taxes leviable within those limits.

45. (1) The fund to or with the control or management of which the local authority of a municipality, cantonment or district is entitled or entrusted shall, notwithstanding anything in any enactment respecting the purposes to which that fund may be applied, be applicable, subject to the control of the Local Government, to the payment of expenses incidental to the exercise of the powers and functions which may be vested in or exercised by a local authority under this Act.

(2) The fund shall also be applicable, with the previous sanction of the Local Government, to a guarantee of the payment of interest on money to be applied, with the concurrence in writing of the local authority, within the limits of the local area under its control, to any of the purposes to which the fund might be applied by the local authority under sub-section (1).

46. The Local Government may, with the consent of the local authority and road-authority and of the promoter and his lessee (if any), extend any part of this Act, or any rules made under this Act, either with or without modification, to the whole or any part

of a tramway constructed, or authorised by the Local Government to be constructed, before the passing of this Act, and may withdraw any part of the Act or any rules so extended.

47. (1) A tramway of which the construction has not been authorised by the Local Government before the passing of this Act shall not, after the passing of this Act, be constructed for public traffic in any place to which this Act extends, except in pursuance of an order made under this Act.

(2) A person constructing a tramway in contravention of sub-section (1) of this section,

or after the passing of this Act maintaining, or using for public traffic, otherwise than in pursuance of an order made under this Act, a tramway which was not constructed, or authorised by the Local Government to be constructed, before the passing of this Act,

shall be liable, on the complaint of the Local Government or local authority, to double the penalty to which a promoter acting otherwise than in accordance with an order is liable under section 27.

48. If at any time a local area comprising a tramway to which this Act or any part thereof or any rule thereunder applies ceases to be included in the circle of a local authority, the functions of that authority under this Act or the part thereof or the rule thereunder, and under the order (if any), shall, in respect of that local area, devolve on the Local Government or, if that Government so directs, on the local authority of the circle in which the tramway has been included.

49. (1) In section 54 of the Indian Railway Act, 1879, the word "tramway" and shall have the meaning assigned to it by section 3 of this Act.

(2) In the same section of that Act, after the words "by steam" the words "or other mechanical power" shall be added.

50. All powers conferred by this Act on a Local Government may be exercised from time to time as occasion requires.

S. HARVEY JAMES,

Offg. Secy. to the Govt. of India.



The following Report of the Select Committee on the Bill to facilitate the construction and to regulate the working of Tramways was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 5th March, 1886 :—

### LEGISLATIVE DEPARTMENT.

WE, the undersigned, Members of the Select Committee to which the Bill to facilitate the

construction and to regulate the working of Tramways was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

From Secretary to Chief Commissioner, Coorg, No. 1573—466, dated 12th December, 1885 [Paper No. 1].  
 From Secretary for Berar to Resident, Hyderabad, No. 582 G., dated 14th December, 1885 [Paper No. 2].  
 From Chief Commissioner, Ajmer-Merwara, No. 215 C., dated 17th December, 1885 [Paper No. 3].  
 From Registrar, High Court, Calcutta, No. 3303, dated 23rd December, 1885 [Paper No. 4].  
 From Secretary to Government, North-Western Provinces and Oudh, No. 1097—XI-176-16, dated 31st December, 1885, and enclosure [Papers No. 5].  
 From Officiating Assistant Secretary to Chief Commissioner, Central Provinces, No. 62—214, dated 7th January, 1886 [Paper No. 6].  
 From Under-Secretary to Government, Bombay, No. 62, dated 9th January, 1886, and enclosures [Papers No. 7].  
 From Secretary to Chief Commissioner, Assam, No. 6 T., dated 9th January, 1886 [Paper No. 8].  
 From Acting Chief Secretary to Government, Madras, No. 77, dated 11th January, 1886, and enclosures [Papers No. 9].  
 Memorandum by J. Kincaid, Esq., M.C.I.E. [Paper No. 10].  
 From Under-Secretary to Government, Bombay, No. 321, dated 26th January, 1886 [Paper No. 11].  
 From Officiating Secretary to Government, Punjab, No. 143, dated 6th February, 1886, and enclosures [Papers No. 12].  
 From Officiating Secretary to Chief Commissioner, British Burma, No. 388—6L., dated 12th February, 1886, and enclosures [Papers No. 13].  
 From Officiating Under-Secretary to Government, Bengal, No. 805, dated 20th February, 1886, and enclosures [Papers No. 14].

lines extending beyond municipal limits, it is often difficult to say whether the line ought to be treated as a tramway or as a light railway, and the object of the proviso is to give the Government of India an opportunity of determining, with reference to particular cases or classes of cases, to which of the two categories such lines ought to be treated as belonging.

3. By section 5 we have empowered the Local Government to modify conditions sought to be imposed by a local authority with respect to the construction within its circle of part of a tramway which is to be laid in two or more circles.

4. In sections 17 and 21 we have provided for an opportunity being given to the promoter to state his case before the Local Government either grants licenses under the former section or determines the powers of the promoter under the latter section.

5. By clauses (g) and (h) of sub-section (1) of section 24 we have enabled the Local Government to make rules as to the periodical submission of statistics relating to tramways, and as to the accidents of which report is to be made.

6. By clause (e) of sub-section (2) of the same section we have empowered local authorities to make rules as to the manner in which carriages using the tramway after sunset and before sunrise are to be lighted.

7. By section 27 we have made the previous sanction of the District Magistrate a condition precedent to the institution by a private person of criminal proceedings against a promoter, lessee or licensee for breach of any provision of the Act or of any direction of an order authorizing the construction of a tramway.

8. By section 35 we have provided that, except where the parties to a difference elect to proceed under section 523 of the Code of Civil Procedure, the matter in difference between them shall be settled, on the application of either party, by a referee, and that, where the difference is between the promoter on the one hand and the local authority on the other with respect to the sum to be paid by the local authority for an undertaking which that authority has required the promoter to sell under section 22, the referee shall be the District Court. We have also provided that, in that case, an appeal shall lie to the High Court from the award of the District Court.

9. To section 45 we have added a sub-section supplementary to Act XV of 1885 (*an Act to amend the Local Authorities Loan Act, 1879*).

10. By section 47 of the Bill we have proposed that, in places to which the Act extends, tramways of which the construction has not been authorised before the passing of the Act shall not be constructed, after the passing of the Act, otherwise than in pursuance of an order made under the Act.

11. By section 48 we have made provision for cases in which a local area comprising a tramway is excluded from the circle of one local authority and included in that of another.

12. By section 49 we have proposed so to amend section 54 of the Indian Railway Act, 1879, as to enable the Governor General in Council to apply that Act or any portion thereof to a tramway worked by any mechanical power.

13. The other amendments of the Bill are few and unimportant, and do not call for special notice.

14. The publication ordered by the Council has been made as follows :—

*In English.*

<i>Gazette.</i>	<i>Date.</i>
Gazette of India ...	31st October, and 7th and 14th November, 1885.
Fort Saint George Gazette ...	18th November, 1885.
Bombay Government Gazette ...	5th, 12th and 19th November, 1885.
Calcutta Gazette ...	11th, 18th and 25th November, 1885.
North-Western Provinces and Oudh Government Gazette ...	7th, 14th and 21st November, 1885.
Punjab Government Gazette ...	5th, 12th and 19th November, 1885.
Central Provinces Gazette ...	7th, 14th and 21st November, 1885.
British Burma Gazette ...	21st and 28th November, and 5th December, 1885.
Assam Gazette ...	21st November, 1885.
Coorg District Gazette ...	1st December, 1885.
Sindh Official Gazette ...	10th December, 1885.

*In the Vernaculars.*

<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Bombay ...	Maráthi ...	17th December, 1885.
	Gujaráthi ...	
	Kanarese ...	
	Sindhi ...	
North-Western Provinces and Oudh ...	Urdu ...	23rd and 30th January, and 6th February, 1886.

15. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

C. P. ILBERT.  
S. C. BAYLEY.  
T. C. HOPE.  
H. ST. A. GOODRICH.  
ROBERT STEEL.  
V. N. MANDLIK.

*The 5th March, 1886.*

S. HARVEY JAMES,  
*Offg. Secretary to the Government of India.*





## GOVERNMENT OF INDIA.

## LEGISLATIVE DEPARTMENT.

[First publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 12th March, 1886, and is hereby promulgated for general information:—

ACT NO. XII OF 1886.

## THE PETROLEUM ACT, 1886.

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*Preliminary.*

## SECTIONS.

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2. Repeal.
3. Definitions.
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5. Dangerous petroleum in quantities exceeding forty gallons.
6. Dangerous petroleum in quantities not exceeding forty gallons.
7. Vessels containing dangerous petroleum to be labelled.

*Petroleum generally.*

8. Power for Local Government to make rules as to importation and refining of petroleum.
9. Procedure after petroleum has been discharged or landed.
10. Possession and transport of petroleum.
11. Power to make rules as to possession and transport.
12. Power to inspect and require dealer to sell samples.
13. Notice to be given when officer proposes to test samples.
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15. Penalty for illegal importation, possession or transport of petroleum.
16. Penalty for keeping, transporting, selling or exposing for sale petroleum in contravention of section 7.
17. Penalty for refusing to comply with section 12.
18. Confiscation of petroleum.
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*Test-apparatus.*

20. Model test-apparatus.
21. Verification of test-apparatus.

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22. Power to Local Government to exempt petroleum from operation of this Act.

## SECTIONS.

23. Power to apply this Act to other fluids.
24. Power to limit operation of enactments relating to municipalities.
25. Power to revoke or vary notifications.
26. Procedure for making and publication of rules.

## THE SCHEDULE.

*An Act to regulate the importation, possession and transport of Petroleum and other fluids of a like nature.*

WHEREAS it is expedient to regulate the importation, possession and transport of petroleum and other fluids of a like nature; It is hereby enacted as follows:—

*Preliminary.*

Short title, commencement and local extent.

1. (1) This Act may be called the Petroleum Act, 1886; and

(2) It shall come into force on such day as the Governor General in Council, by notification in the Gazette of India, appoints.

(3) The provisions of this Act relating to dangerous petroleum, and the importation of petroleum, extend to the whole of British India. The rest of this Act extends only to such local areas as the Local Government may from time to time, by notification in the official Gazette, direct.

(4) Any power conferred by this Act to make rules or issue orders may be exercised at any time after the passing of this Act; but a rule or order so made or issued shall not take effect until the Act comes into force.

2. (1) On and from the day on which this Act comes into force, the Petroleum Act, 1881, shall be repealed:

VIII of 1881.

(2) But all notifications issued, rules made, licenses granted, powers conferred and certificates given under that Act shall, so far as may be, be deemed to have been issued, made, granted, conferred and given under this Act.

3. In this Act, unless there is something repugnant in the subject or context,—

## Definitions.

(1) "petroleum" includes also the liquids commonly known by the names of rock oil, Rangoon oil, Burma oil, kerosine, paraffine oil, mineral oil, petroline, gasoline, benzol, benzoline, benzine, and any inflammable liquid which is made from petroleum, coal, schist, shale, peat or any other bituminous substance, or from any products of petroleum; but it does not include any oil ordinarily used for lubricating purposes and having its flashing point at or above two hundred degrees of Fahrenheit's thermometer:

(2) "dangerous petroleum" means petroleum having its flashing point below seventy-six degrees

*The Petroleum Act, 1886.**(Dangerous Petroleum.—Sections 4-8.)*

of Fahrenheit's thermometer: Provided that, when all or any of the petroleum on board a ship, or in the possession of a dealer, is declared by the master of the ship or the consignee of the cargo, or by the dealer, as the case may be, to be of one uniform quality, the petroleum shall not be deemed to be dangerous if the samples selected from the petroleum have their flashing points, on an average, at or above seventy-three degrees of Fahrenheit's thermometer, and if no one of those samples has its flashing point below seventy degrees of that thermometer:

(3) "import" means to bring into British India by sea or land,

and "importation" means the bringing into British India as aforesaid:

(4) "transport" means to remove from one place to another within British India: and

(5) "ship" includes anything made for the conveyance by water of human beings or property.

4. (1) The flashing point of petroleum means the lowest temperature at which the petroleum yields a vapour which will furnish a momentary flash or flame when tested in accordance with the directions in the schedule to this Act with an apparatus which has been stamped and certified as provided by this Act within a period of five years immediately preceding the date on which the apparatus is used for the testing, and after the corrections (if any) which the certificate declares are to be applied to the results of the testing have been made.

(2) Notwithstanding anything in the definitions of "import", "importation" and "transport", the Local Government, with the previous sanction of the Governor General in Council, may from time to time, by notification in the official Gazette, declare—

(a) that petroleum imported into its territories from any part of British India, by sea or across intervening territory not being part of British India, shall, for all or any of the purposes of this Act, be deemed to be transported; and

(b) that petroleum transported into its territories from any place in British India shall, for all or any of those purposes, be deemed to be imported;

and thereupon the provisions of this Act, and of the rules made under this Act, with respect to transport and import, respectively, shall apply to petroleum so imported or transported.

*Dangerous Petroleum.*

5. (1) No quantity of dangerous petroleum exceeding forty gallons shall be imported or transported, or kept by any one person or on the same premises, except under, and in accordance with the conditions of, a license from the Local Government granted as next hereinafter provided.

(2) Every application for such a license shall be in writing, and shall declare—

(a) the quantity of the petroleum which it is desired to import, transport or possess, as the case may be;

(b) the purpose for which the applicant believes that the petroleum will be used; and

(c) that petroleum other than dangerous petroleum cannot be used for that purpose.

(3) If the Local Government sees reason to believe that the petroleum will be used for that purpose, and that no petroleum other than dangerous petroleum can be used for the purpose, it may grant the license for the importation, transport or possession (as the case may be) of the petroleum, absolutely or subject to such conditions as it thinks fit.

6. No quantity of dangerous petroleum equal to or less than forty gallons shall be kept or transported without a license:

Dangerous petroleum in quantities not exceeding forty gallons.

Provided that nothing in this section shall apply in any case when the quantity of the petroleum kept by any one person or on the same premises, or transported, does not exceed three gallons, and the petroleum is placed in separate glass, stone-ware or metal vessels, each of which contains not more than a pint and is securely stopped.

Vessels containing dangerous petroleum to be labelled.

*7. Dangerous petroleum—*

(a) which is kept at any place after seven days from the date on which it is imported, or

(b) which is transported, or

(c) which is sold or exposed for sale,

shall be contained in vessels having attached thereto a label in conspicuous characters stating the description of the petroleum, with the addition of the words "highly inflammable" and with the addition—

(d) in the case of a vessel kept, of the name and address of the consignee or owner;

(e) in the case of a vessel transported, of the name and address of the sender; and

(f) in the case of a vessel sold or exposed for sale, of the name and address of the vendor.

*Petroleum generally.*

8. (1) The Local Government, with the previous sanction of the Governor General in Council, may make rules consistent with this Act to regulate the importation of petroleum, and in particular—

(a) to determine the ports at which only petroleum may be imported;

(b) to ascertain the quantity and description of any petroleum on board any ship;

(c) to determine the places at which, and the conditions on [and subject to which] petroleum may be discharged into boats, landed, transhipped or stored;

(d) to provide for the selection by an officer appointed by the Local Government in this behalf, and for the delivery to him, either after or before petroleum has been landed, of samples of all petroleum landed or intended to be landed;

(e) to provide, in the case of each consignment which is stated to be of one uniform quality, for the number of samples to be selected, and for the averaging of the results of the testing of those samples;

(f) to provide, where the results of the testing of the samples raise a doubt as to the uniformity of the quality of the petroleum in any such consignment, for the division of the consignment into lots, and for the



*The Petroleum Act, 1886.**(Petroleum generally.—Sections 9-14.)*

selection and testing of samples of each lot, and for the treatment of the lot in accordance with the results of the testing of those samples;

- (g) to fix fees for the sampling and testing of petroleum; and
- (h) to fix fees for the storage of petroleum unless a body of port commissioners or other like body is empowered in that behalf.

(2) The Local Government, with the previous sanction of the Governor General in Council, may, with respect to any petroleum produced within its territories, make rules—

- (a) to define the limits of the places where the petroleum is to be refined;
- (b) to provide for the testing of the petroleum at or near those places; and
- (c) to prevent the removal from those limits, otherwise than under the provisions of this Act applicable to dangerous petroleum, of petroleum which has not satisfied the tests prescribed by the rules.

9. (1) Petroleum discharged into boats or landed

Procedure after petroleum has been discharged or landed.

in accordance with rules made under section 8, sub-section (1), shall not be removed from the boats or places in or

at which it is stored until the samples selected therefrom in accordance with those rules have been tested by an officer appointed by the Local Government in this behalf in the manner described in the schedule to this Act with an apparatus which has been stamped and certified as provided by this Act, and until the officer has given a certificate that the petroleum is not dangerous petroleum.

(2) If the officer after testing the samples refuses to give the certificate in respect of any petroleum, the Local Government may permit the consignee, within a time to be fixed by the Local Government in this behalf,—

- (a) to rectify the petroleum,
- (b) to apply for a license to import the petroleum as dangerous petroleum, or
- (c) to re-export the petroleum.

(3) If the consignee does not within the time fixed under sub-section (2) avail himself of the permission granted under that sub-section, the petroleum may be disposed of as the Local Government directs.

(4) Notwithstanding anything in the foregoing portions of this section, the Local Government in its discretion may, where the officer has refused the certificate, direct that the petroleum be re-tested by another officer appointed by it in this behalf, and may, if that officer advises that the petroleum is not dangerous petroleum, authorise its removal from the boats or places in or at which it is stored.

10. No quantity of petroleum exceeding five hundred gallons shall be kept

Possession and transport of petroleum.

by any one person or on the same premises or shall be transported except under, and in accordance with the conditions of, a license granted under this Act.

11. (1) The Local Government, with the previous sanction of the Governor General in Council, may

Power to make rules as to possession and transport.

make rules consistent with this Act as to the granting

of licenses to possess or transport petroleum in cases where such licenses are by law required.

(2) The rules may provide for the following among other matters, that is to say:—

in the case of licenses to possess petroleum—

- (a) the nature and situation of the premises for which they may be granted, and
- (b) the inspection of the premises and the testing of petroleum found thereon;

in the case of licenses to transport petroleum—

- (c) the manner in which the petroleum is to be packed, the mode and time of transit, and the route by which it is to be taken, and
- (d) the stoppage and inspection of it during transit;

in the case of both such licenses—

- (e) the authority by which the license may be granted;
- (f) the fee to be charged for it;
- (g) the quantity of petroleum it is to cover;
- (h) the conditions which may be inserted in it;
- (i) the time during which it is to continue in force; and
- (j) the renewal of the license.

(3) The Governor General in Council may make rules consistent with this Act as to the granting of licenses to transport petroleum from any part of British India to any other part of British India in cases where such licenses are by law required; and those rules may provide, among other matters, for those mentioned in sub-section (2) as matters for which rules made by Local Government with respect to licenses to transport petroleum may provide.

12. Any officer specially authorized by name

Power to inspect and or by virtue of his office in require dealer to sell this behalf by the Local samples.

Government may require any dealer in petroleum to show him any place and any of the vessels in which any petroleum in his possession is stored or contained, to give him such assistance as he may require for examining the same, and to deliver to him samples of the petroleum on payment of the value of the samples.

13. When any such officer has, in exercise of

the powers conferred by section 12, or by purchase, obtained a sample of petroleum in the possession of a

dealer, he may give a notice in writing to the dealer informing him that he is about to test the sample or cause it to be tested with the apparatus and in the manner described in the schedule to this Act, at a time and place to be fixed in the notice, and that the dealer or his agent may be present at the testing.

14. On any such testing, if it appears to the

officer or other person so testing that the petroleum from which the sample has been

taken is or is not dangerous petroleum, the officer or other person may certify the fact; and the certificate so given shall be receivable as evidence in any proceedings which may be taken under this Act against the dealer in whose possession the petroleum was found, and shall, until the contrary is proved, be evidence of the fact stated therein; and a certified copy of the certificate shall be given free of charge to the dealer at his request.

*The Petroleum Act, 1886.**(Test-apparatus.—Sections 18-21.) & (Miscellaneous.—Sections 22-26.)**Penalties.*

**15.** Any person who, in contravention of this Act or of any rules made under this Act, imports, possesses or transports any petroleum, and any person who otherwise contravenes any such rules or any condition contained in a license granted under this Act, shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

Penalty for illegal importation, possession or transport of petroleum.

**16.** Any person keeping, transporting, selling or exposing for sale petroleum in vessels not labelled as prescribed by section 7, shall be punished with fine which may extend to five hundred rupees.

Penalty for keeping, transporting, selling or exposing for sale petroleum in contravention of section 7.

**17.** Any dealer in petroleum who refuses or neglects to show to any Officer authorized under section 12 any place or any of the vessels in which petroleum in his possession is stored or contained, or to give him such assistance as he may require for examining the same, or to give him samples of the petroleum on payment of the value of the samples, shall be punished with fine which may extend to two hundred rupees.

Penalty for refusing to comply with section 12.

**18.** In any case in which an offence under section 15 or section 16 has been committed, the convicting Magistrate may direct that—

Confiscation of petroleum.

(a) the petroleum in respect of which the offence has been committed, or

(b) where the offender is importing or transporting, or is in possession of, any petroleum exceeding the quantity (if any) which he is permitted to import, transport or possess, as the case may be, the whole of the petroleum which he is importing or transporting or is in possession of,

shall, together with the tins or other vessels in which it is contained, be confiscated.

**19.** The criminal jurisdiction under this Act shall, in the towns of Calcutta, Madras and Bombay, be exercised by a Presidency Magistrate, and elsewhere by a Magistrate of the first class, or (where specially empowered by the Local Government to try cases under this Act) a Magistrate of the second class.

Jurisdiction.

*Test-apparatus.*

**20.** A model of the apparatus for testing petroleum under this Act, constructed in accordance with the description contained in the schedule to this Act, shall be deposited in the office of the Chemical Examiner to Government, Calcutta, and be marked with the words "Model test-apparatus."

**21.** (1) The Chemical Examiner shall, on payment of such fee (if any) as the Governor General in Council may, from time to time, by notification in the Gazette of India, prescribe, compare with the said model test-apparatus and verify every apparatus for testing petroleum which is submitted to him for the purpose.

(2) If any apparatus for testing petroleum, when compared and verified as provided by sub-section (1), is found correct, or correct subject to cer-

tain corrections to be applied to the results of the tests, the Chemical Examiner shall stamp the same with a special number, and with the date of the verification, and shall further give a certificate in writing under his hand, in a form to be prescribed by the Governor General in Council, to the effect that on the date aforesaid the apparatus was compared and verified by him and found to be correct, or correct subject to certain specified corrections to be applied to the results of the tests.

(3) A certificate granted under this section shall, until the contrary is proved, be conclusive proof of the matters stated therein.

(4) The Chemical Examiner shall keep a register, in a form to be prescribed by the Governor General in Council, of the certificates granted under this section.

(5) Subject to the payment of such fees as the Governor General in Council may, by notification in the Gazette of India, prescribe in this behalf, the said model test-apparatus shall be at all reasonable times open to inspection by any person desiring to inspect it.

*Miscellaneous.*

**22.** The Local Government may, from time to time, by notification in the official Gazette, exempt from the operation of all or any of the provisions of this Act, or of all or any of the rules made under this Act, any petroleum which has its flashing point at or above one hundred and twenty degrees of Fahrenheit's thermometer and is imported as ordinary cargo and in quantity not exceeding that specified in the notification.

**23.** The Governor General in Council may, from time to time, by notification in the Gazette of India, apply the whole or any portion of this Act to any inflammable fluid other than petroleum, and may by the notification fix, in substitution for the quantities of petroleum fixed by sections 5, 6 and 10, the quantities of the fluid to which those sections shall apply.

**24.** The Governor General in Council may, from time to time, by notification in the Gazette of India and in the local official Gazette, limit, in any manner he deems fit, the operation of any enactment for the time being in force relating to municipalities in any local area or to any particular municipality, and the exercise of any power conferred by any such enactment, in so far as the enactment relates to the possession or transport of petroleum.

**25.** A notification made under this Act may be revoked or varied by the authority making it by a notification published in the same manner as the notification so revoked or varied.

**26.** (1) An authority making rules under this Act shall, before making the rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

(2) The publication shall be made in such manner as the Governor General in Council, from time to time, by notification in the Gazette of India, prescribes.



*The Petroleum Act, 1886.**(The Schedule.)*

(3) There shall be published with the draft a notice specifying a date at or after which the draft will be taken in consideration.

(4) The authority making the rules shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(5) A rule made under this Act shall not take effect if it is made by the Governor General in Council until it has been published in the Gazette of India, and if it is made by the Local Government until it has been published in the local official Gazette.

(6) The publication in the Gazette of a rule purporting to be made under this Act shall be conclusive proof that it has been duly made.

(7) All powers to make rules conferred by this Act may be exercised from time to time as occasion requires.

## THE SCHEDULE.

*I.—Nature of the Test-apparatus.*

The apparatus consists of the following parts:—

- (1) the oil-cup;
- (2) the cover, with slide, test-lamp, and clockwork arrangement for opening and closing the holes in the cover and for dipping the test-flame;
- (3) the water-bath or heating vessel;
- (4) the tripod-stand, with jacket and spirit-lamp for heating the water-bath;
- (5) the thermometer for indicating the temperature of the oil in the oil-cup;
- (6) the thermometer for indicating the temperature of the water in the water-bath;
- (7) the thermometer for indicating the temperature of the oil before it is poured into the oil-cup;
- (8) the dropping bottle or *pipette* for replenishing the test-lamp; and
- (9) a barometer standardised at the Meteorological Office of the province or at any other place appointed by the Local Government.

The oil-cup is a cylindrical flat-bottomed vessel, made of gun-metal or brass, and tinned or silvered inside. A gauge is fixed to the inside of the cup to regulate the height to which it is to be filled with the sample under examination.

The cup is provided with a close fitting overlapping cover, which carries the thermometer, the test-lamp and the adjuncts thereto. The test-lamp is suspended upon two supports by means of trunnions, which allow it to be easily inclined to a particular angle and restored to its original

position. The socket in the cover, which is to hold a round bulb thermometer for indicating the temperature of the oil during the testing operation, is so adjusted that the bulb of the latter is always inserted in a definite position below the surface of the liquid.

The cover is provided with three holes, one in the centre and two smaller ones close to the sides. These are closed and opened by means of a pivoted slide. When the slide is moved so as to uncover the holes, the suspended lamp is caught by a projection fixed on the slide, and tilted in such a way as to bring the end of the spout just below the surface of the lid. As the slide moves back so as to cover the holes, the lamp returns to its original position. Upon the cover, in front of and in a line with the nozzle of the lamp, is fixed a white bead, the diameter of which represents the size of the test-flame to be used.

The water-bath or heating vessel is so constructed that, when the oil-cup is placed in position in it, an air-space or air-chamber intervenes between the two; consequently, in applying the test under ordinary circumstances, the heat is transmitted gradually to the oil from the hot water through the air-space. The water-bath is fitted with a socket for receiving a long bulb thermometer, to indicate the temperature of the water. It is also provided with a funnel, an overflow-pipe and two handles.

The water-bath rests upon a tripod stand, which is fitted with a copper cylinder or jacket, so that the bath is surrounded by an enclosed air-space, which retains and regulates the heat. One of the legs of the stand serves as a support for a spirit-lamp, which is attached to it by a small swing bracket.

The clockwork arrangement, by which during the operation of testing the slide is withdrawn, and the test-flame dipped into the cup and raised again as the slide is replaced, is provided with a ratchet key for setting it in action for each test, and with a trigger for starting it each time that the test-flame is applied.

*II.—Directions for drawing the Sample and preparing it for Testing.*

1. *Drawing the sample.*—In all cases the testing officer or some person duly authorised by him shall personally superintend the drawing of the sample from an original unopened tin or other vessel.

An opening sufficiently large to admit of the oil being rapidly poured or syphoned from the tin or other vessel shall be made.

Two bottles, each of the capacity of about 40 fluid ounces, are to be filled with the oil. One of these, the contents of which is intended to be preserved for reference in case of need, is to be carefully corked, the cork being well driven home,

*The Petroleum Act, 1886.**(The Schedule.)*

cut off level with the neck, and melted sealing-wax worked into it. The other bottle may be either stoppered or corked.

2. *Preparing the sample for testing.*—About ten fluid ounces of the oil, sufficient for three tests, are transferred from the bottle into which the sample has been drawn to a pint flask or bottle, which is to be immersed in water artificially cooled until a thermometer, introduced into the oil, indicates a temperature not exceeding 50° Fahrenheit.

*III.—Directions for preparing and using the Test-apparatus.*

1. *Preparing the water-bath.*—The water-bath is filled by pouring water into the funnel until it begins to flow out at the overflow-pipe. The temperature of the water at the commencement of each test, as indicated by the long bulb thermometer, is to be 130° Fahrenheit, and this is attained in the first instance by mixing hot and cold water, either in the bath or in a vessel from which the bath is filled, until the thermometer which is provided for testing the temperature of the water gives the proper indication; or the water is heated by means of the spirit-lamp (which is attached to the stand of the apparatus) until the required temperature is indicated.

2. *Preparing the test-lamp.*—The test-lamp is fitted with a piece of cylindrical wick of such thickness that it fills the wick-holder, but may readily be moved to and fro for the purpose of adjusting the size of the flame. In the body of the lamp, upon the wick, which is coiled within it, is placed a small tuft of cotton wool, moistened with petroleum, any oil not absorbed by the wool being removed. When the lamp has been lighted, the wick is adjusted by means of a pair of forceps until the flame is of the size of the bead fixed on the cover of the oil-cup; should a particular test occupy so long a time that the flame begins to get smaller, through the supply of oil in the lamp becoming exhausted, three or four drops of petroleum are allowed to fall upon the tuft of wool in the lamp from the dropping bottle or pipette provided for that purpose. This can be safely done without interrupting the test.

3. *Filling the oil-cup.*—The oil-cup having been previously cooled, by placing it bottom downwards in water at a temperature not exceeding 50° Fahrenheit, is to be rapidly wiped dry, placed on a level surface in a good light, and the oil to be tested is poured in very slowly, without splashing, until its surface is level with the point of the gauge which is fixed in the cup. The round bulb thermometer is inserted into the lid of the cup, care being taken that the projecting rim of the collar touches the edge of the socket; the test-lamp, prepared as already described, is placed in position, and the cover is then put on to the cup and pressed down so that its edge rests on the rim of the cup.

4. *Application of the test.*—The water-bath, with its thermometer in position, is placed in some locality where it is not exposed to currents of air, and where the light is sufficiently subdued to admit of the size of the entire test-flame being compared with that of the bead on the cover. The cup is carefully lifted without shaking it, and placed in the bath, the test-lamp is lighted, and the clockwork wound up by turning the key. The thermometer in the oil-cup is now watched, and when the temperature has reached 56° Fahrenheit the clockwork is set in motion by pressing the trigger.

If no flash takes place the clockwork is at once re-wound, and the trigger pressed at 57° Fahrenheit, and so on, at every degree rise of temperature, until the flash occurs, or until a temperature of 95° Fahrenheit has been reached.

If the flash takes place at any temperature below 77° Fahrenheit the temperature at which it occurs is to be recorded. The fresh portions of the sample are then to be successively tested in a similar manner and the results recorded. If no greater difference than 2° Fahrenheit exists between any two of the three recorded results, each result is to be corrected for atmospheric pressure, as hereafter described, and the average of the three corrected results is the flashing point of the sample. In the event of there being a greater difference than 2° Fahrenheit between any two of the results, the series of tests is to be rejected and a fresh series, of three, similarly obtained, and so on until a sufficiently concordant series is furnished, when the results are to be corrected and the average taken in the manner already described.

No flash which takes place within eight degrees of the temperature at which the testing is commenced shall be accepted as the true flashing point of the sample tested. In the event of a flash occurring at or below 64° when the test is applied in the manner above described, the next testing shall be commenced ten degrees lower than the temperature at which the flash had been previously obtained (that is to say, at 54° or thereunder), and this procedure shall be continued until the results of three consecutive tests do not show a greater difference than 2°.

If a temperature of 76° Fahrenheit has been reached without a flash occurring, the application of the test-flame is to be continued at every degree rise of temperature until a temperature of 95° Fahrenheit has been reached. If no flash has occurred up to this point, and if the petroleum is declared to be imported subject to the provisions of the Act, the tests shall not be continued, and the testing officer shall certify that the petroleum has a flashing point over 95° and is not dangerous. But if the petroleum is oil ordinarily used for lubricating purposes and is declared to have its flashing point at or above 200° degrees, or is oil to which a notification of the Local Government exempting it from the operation of the Act will be



*The Petroleum Act, 1886.**(The Schedule.)*

applicable in the event of the flashing point being found to be at or above 120°, the test shall be continued as follows:—The oil-cup is to be removed from the water-bath, and the temperature of the water in the water-bath is to be reduced to 95° Fahrenheit by pouring cold water into the funnel (the hot water escaping by the overflow-pipe). The air-chamber is then to be filled to a depth of 1½ inches with water at a temperature of about 95° Fahrenheit, the oil-cup is to be replaced in the water-bath and the spirit-lamp attached to the water-bath is to be lighted and placed underneath. The test-flame is then to be again applied, from 96° Fahrenheit, at every degree rise of temperature as indicated by the thermometer in the oil-cup until a flash takes place or until a temperature of 200° Fahrenheit or 120° Fahrenheit, as the case may be, has been reached. If during this operation the test-flame appears to diminish in size, the lamp is to be replenished in the manner prescribed at (2) without interrupting the test.

If a flash occurs at any temperature between 76° and 200° Fahrenheit, the temperature at which it occurs, subject to correction for atmospheric pressure, is the flashing point of the sample.

In repeating a test a fresh sample of oil must always be used, the tested sample being thrown away, and the cup must be wiped dry from any adhering oil and cooled, as already described, before receiving the fresh sample.

5. *Correction for atmospheric pressure.*—As the flashing point of an oil is influenced by changes in atmospheric pressure to an average extent of 1·6° Fahrenheit for every inch of the barometer, a correction of the observed flashing point may become necessary. The height of the barometer must therefore be determined at the time of making the test for the flashing point. The true height of the barometer for the purpose of the test shall be considered to be the height of the column of mercury measured at 32° Fahrenheit, which is supported by the air pressure at the time of the experiment; that is, the actual height of the barometer at the time of observation duly corrected for any error of the instrument and for its temperature if necessary. For the purpose of applying the correction to the flashing point of the oil obtained by the test, a table is appended to this schedule, giving the flashing points of oils ranging from 65° to 80° Fahrenheit, under pressure ranging from 27 to 31 inches of mercury.

The table is used in the following manner:—

*Example.*—An oil has given a flashing point of 71°, the barometer being at 28·6 inches; take the nearest number to 71° in the vertical column headed 28·6. This number is 70·8. Substitute for this the number in the same horizontal line in the column headed 30 (the normal height of the barometer). The substituted number, that is, the true flashing point of the oil, is 73°.

*Table for correction of Flashing Points indicated by the Test for Variations in Barometric Pressure on either side of Thirty Inches.*

27	27·2	27·4	27·6	27·8	28	28·2	28·4	28·6	28·8	29	29·2	29·4	29·6	29·8	30	30·2	30·4	30·6	30·8	31
60·2	60·5	60·8	61·2	61·5	61·8	62·1	62·4	62·8	63·1	63·4	63·7	64	64·4	64·7	65	65·3	65·6	66	66·3	66·6
61·2	61·5	61·8	62·2	62·5	62·8	63·1	63·4	63·8	64·1	64·4	64·7	65	65·4	65·7	66	66·3	66·6	67	67·3	67·6
62·2	62·5	62·8	63·2	63·5	63·8	64·1	64·4	64·8	65·1	65·4	65·7	66	66·4	66·7	67	67·3	67·6	68	68·3	68·6
63·2	63·5	63·8	64·2	64·5	64·8	65·1	65·4	65·8	66·1	66·4	66·7	67	67·4	67·7	68	68·3	68·6	69	69·3	69·6
64·2	64·5	64·8	65·2	65·5	65·8	66·1	66·4	66·8	67·1	67·4	67·7	68	68·4	68·7	69	69·3	69·6	70	70·3	70·6
65·2	65·5	65·8	66·2	66·5	66·8	67·1	67·4	67·8	68·1	68·4	68·7	69	69·4	69·7	70	70·3	70·6	71	71·3	71·6
66·2	66·5	66·8	67·2	67·5	67·8	68·1	68·4	68·8	69·1	69·4	69·7	70	70·4	70·7	71	71·3	71·6	72	72·3	72·6
67·2	67·5	67·8	68·2	68·5	68·8	69·1	69·4	69·8	70·1	70·4	70·7	71	71·4	71·7	72	72·3	72·6	73	73·3	73·6
68·2	68·5	68·8	69·2	69·5	69·8	70·1	70·4	70·8	71·1	71·4	71·7	72	72·4	72·7	73	73·3	73·6	74	74·3	74·6
69·2	69·5	69·8	70·2	70·5	70·8	71·1	71·4	71·8	72·1	72·4	72·7	73	73·4	73·7	74	74·3	74·6	75	75·3	75·6
70·2	70·5	70·8	71·2	71·5	71·8	72·1	72·4	72·8	73·1	73·4	73·7	74	74·4	74·7	75	75·3	75·6	76	76·3	76·6
71·2	71·5	71·8	72·2	72·5	72·8	73·1	73·4	73·8	74·1	74·4	74·7	75	75·4	75·7	76	76·3	76·6	77	77·3	77·6
72·2	72·5	72·8	73·2	73·5	73·8	74·1	74·4	74·8	75·1	75·4	75·7	76	76·4	76·7	77	77·3	77·6	78	78·3	78·6
73·2	73·5	73·8	74·2	74·5	74·8	75·1	75·4	75·8	76·1	76·4	76·7	77	77·4	77·7	78	78·3	78·6	79	79·3	79·6
74·2	74·5	74·8	75·2	75·5	75·8	76·1	76·4	76·8	77·1	77·4	77·7	78	78·4	78·7	79	79·3	79·6	80	80·3	80·6
75·2	75·5	75·8	76·2	76·5	76·8	77·1	77·4	77·8	78·1	78·4	78·7	79	79·4	79·7	80	80·5	80·6	81	81·3	81·6

S. HARVEY, JAMES,  
Offg. Secretary to the Government of India.

The following Report of the Select Committee on the Bill to amend the Petroleum Act, 1881, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 5th March, 1886:—

### LEGISLATIVE DEPARTMENT.

WE, the undersigned, Members of the Select Committee to which the Bill to amend the Petroleum Act, 1881, was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

2. On the general question of standards and the definition of dangerous petroleum, we adhere to the scheme laid down in section 3 of the Bill. But Dr. Warden and Mr. Pedler suggest that the lowest standard for lubricating oils (the attainment of which would exempt them from the operation of the Act) should be fixed at 200° instead of 250° as in the present Act. It is, they explain, practically impossible with the Abel apparatus to test up to 250°. They consider the limit of 150°, which is proposed in some of the papers, too low for this country, and believe 200° would meet all reasonable requirements. In this view we concur. We are also of opinion that Local Governments should be empowered to exempt from the operation of the Act and rules oil certified to be over 120° when imported as ordinary cargo and in limited quantities.

3. We consider that section 4 of the Bill should be omitted. Messrs. Warden and Pedler point out that the drawback of the fragility of glass for carriage is frequently more than counterbalanced by its impermeability. It is very difficult in this country to get tin or metal vessels made which shall be thoroughly impervious to highly volatile oil.

4. It is suggested by the Bombay Government and other authorities that it should be made clear that conveyance by sea from one part of British India to another is "transport" and not "import" within the meaning of the Act. We are of opinion that some discretion in the matter should be left to the Local Governments. It would be unsafe, for instance, at present to admit freely to Calcutta oil brought up from Burma. Experience has shown that in Burma refining is not yet thoroughly understood, and the local testing is not at present very trustworthy. The Local Governments in India should have power to treat such oil as foreign oil until its quality generally improves. On the other hand, there is no reason why foreign oil once properly tested should be re-tested on arrival at a second port. We have taken power for the Local Governments of territories, such as Burma and Assam, in which oil is or is likely to be produced, to appoint testing officers at or near refineries, and to prevent the removal from the refineries of oil which does not satisfy the tests otherwise than under the regulations for the control of dangerous petroleum.

5. Turning now to the question of the method of sampling cargoes, we concur with the Bombay Government and other authorities in thinking that it should be open to the Local Government by rule to provide for sampling either before or after landing; to prescribe the number of samples to be taken from a cargo or consignment or any part thereof; to provide, when the first test is unsatisfactory, or when doubt is felt as to the uniformity of quality in the cargo, for the landing and sorting of the cargo in lots, or its delivery into boats, each of a certain capacity; and for the sampling of each lot or boat-load, and its ultimate treatment in accordance with the results of the test in each case.



When a doubtful cargo has to be landed and stacked, substantial fees should be levied, as much additional work is thrown upon Government officers.

6. With reference to the objections taken by some Bombay officers to the provisions of the schedule requiring that the sample tin should be tapped in presence of the testing officer, we observe that Messrs. Warden and Pedler both attach importance to this, as all manipulation and airing of the oil tends to raise its flashing point, and the drawing of oil for testing purposes should in any case be under the control of a responsible officer of the testing department. They consider that in most cases the selection of *one* case from a cargo of oil certified before arrival to be ordinary petroleum is sufficient, if care is taken to get the sample from below, and thus to defeat any attempt at "facing" the cargo. The number of samples taken at Bombay appears to be unduly large, and has given rise to the objection that to convey them to the Chemical Examiner's laboratory would be an arduous task. We have so amended the Schedule, Part II, paragraph 1, as to provide that the testing officer or, some person duly authorized by him shall superintend the drawing of the sample.

7. In revising the Bill we have had regard to the practice which obtains in Bombay of allowing delivery into cargo-boats pending the result of testing, and to the suggestion of the Bengal Government that the Local Government should have the power in special cases to order further tests in such manner as it may deem expedient.

8. As regards the suggestion of the Bombay Government that a second standard apparatus should be maintained at Bombay, it appears to us to be highly important to secure uniformity in the tests throughout India. To this end there should be but one absolute and ultimate standard, and this can most conveniently be maintained in Calcutta.

9. We are of opinion that the Chemical Examiner should stamp any apparatus sent to him not only with a special number but also with the date of his verification of the apparatus, and further that he should give a certificate in writing under his hand, in a form to be laid down by the Governor General in Council, to the effect that the apparatus has been compared and verified by him on a given date and been found to be correct, or correct subject to certain specified corrections to be applied to the results of tests.

10. The Chemical Examiner should also keep a register of verifications.

11. Messrs. Warden and Pedler suggest that in the Schedule, Part I, provision be made for "a barometer standardised at the Meteorological Office of the province, or at any other place appointed by the Local Government." We have accepted the suggestion.

12. With respect to the changes in the Schedule, Part III, proposed by Dr. Lyon, Messrs. Warden and Pedler are inclined to hold that Sir F. Abel has in a paper before us sufficiently met Dr. Lyon's difficulty, and they believe that in practice no difficulty is likely to arise of the kind Dr. Lyon puts forward. They have, however, suggested, and we have acted on the suggestion, that all possible objection would be removed if it were provided that no flashing point obtained should be accepted unless it be at least 8° above the temperature at which the testing commenced.

13. Messrs. Warden and Pedler are of opinion that it is unnecessary in the case of ordinary petroleum to continue the tests when no flash has been obtained up to 95° Fahrenheit. It is only in the case of petroleum for which exemption from the Act is claimed that the test need be continued in the manner laid down in the fourth paragraph of the rules for "application of the test". We have modified that paragraph accordingly.

14. In the Schedule, Part III, paragraph 5, we have pointed out that the height of the barometer must be determined at the time of making the test for the flashing point.

15. We are advised not to accept the suggestion made from Burma to adopt Hewmann's apparatus in preference to Abel's.

16. We have had regard to the remarks of the Bombay Government with reference to the repeal of the municipal laws affecting petroleum, and to giving power to Port Trusts to regulate their own fees for the storage of petroleum.

17. Having thus amended the Bill we have deemed it advisable to consolidate it and the Petroleum Act of 1881, and, in doing so, have taken the opportunity (a) to enhance the penalty for keeping, transporting, selling or exposing for sale dangerous petroleum in contravention of the Act, and (b) to empower the Governor General in Council to make rules as to the transport of petroleum from any part of British India to any other part.

18. The other alterations we have made in consolidating the Bill and the Act are few and unimportant and do not call for notice.

19. The publication ordered by the Council has been made as follows:—

		<i>In English.</i>		<i>Date.</i>
<i>Gazette.</i>				
Gazette of India	...	...	...	14th, 21st and 28th March, 1885.
Port Saint George Gazette	...	...	...	8th April, 1885.
Bombay Government Gazette	...	...	...	26th March, and 2nd and 9th April, 1885.
Calcutta Gazette	...	...	...	1st and 8th April, 1885.
North-Western Provinces and Oudh Government Gazette	...	...	...	28th March, and 4th and 11th April, 1885.
Punjab Government Gazette	...	...	...	9th, 16th and 23rd April, 1885.
Central Provinces Gazette	...	...	...	4th, 11th and 18th April, 1885.
British Burma Gazette	...	...	...	11th, 18th and 25th April, 1885.
Assam Gazette	...	...	...	4th, 11th and 18th April, 1885.
Coorg District Gazette	...	...	...	1st May, 1885.

		<i>In the Vernaculars.</i>		<i>Date.</i>
<i>Province.</i>		<i>Language.</i>		
Madras	...	Kanarese	...	16th June, 1885.
		Telugu	...	23rd June, 1885.
		Malayalam	...	30th June, 1885.
		Tamil	...	17th July, 1885.
Bombay	...	Hindustani	...	4th June, 1885.
		Gujarathi	...	11th June, 1885.
		Marathi	...	11th June, 1885.
		Kanarese	...	28th April, 1885.
Bengal	...	Bengali	...	21st May, 1885.
		Uriya	...	9th June, 1885.
		Hindi	...	18th and 25th May, and 1st June, 1885.
Punjab	...	Urdu	...	20th and 27th June, and 4th July, 1885.
Central Provinces	...	Marathi	...	

20. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended and consolidated with the Act of 1881.

C. P. ILBERT.  
S. C. BAYLEY.  
J. W. QUINTON.  
H. ST.A. GOODRICH.  
ROBERT STEEL.

The 5th March, 1886.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.





# The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MARCH 20, 1886.

• Separate paging is given to this Part in order that it may be filed as a separate compilation.

## PART IV.

Acts of the Governor General's Council assented to by the Governor General.

### GOVERNMENT OF INDIA.

#### LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 8th March, 1886, and is hereby promulgated for general information:—

ACT NO. VI OF 1886.

#### THE BIRTHS, DEATHS AND MARRIAGES REGISTRATION ACT, 1886.

#### CONTENTS.

##### CHAPTER I. PRELIMINARY.

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##### CHAPTER II.

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6. Establishment of general registry offices and appointment of Registrars General.
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9. Copies of entries to be admissible in evidence.
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##### CHAPTER III.

##### REGISTRATION OF BIRTHS AND DEATHS.

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##### B.—Registration Establishment.

12. Power for Local Government to appoint Registrars for its territories.
13. Power for Governor General in Council to appoint Registrars for Native States.
14. Registrar to be deemed a public servant.
15. Power to remove Registrars.
16. Office and attendance of Registrar.
17. Absence of Registrar or vacancy in his office.
18. Register books to be supplied and preservation of records to be provided for.

##### C.—Mode of Registration.

19. Duty of Registrar to register births and deaths of which notice is given.
20. Persons authorized to give notice of birth.
21. Persons authorized to give notice of death.
22. Entry of birth or death to be signed by person giving notice.
23. Grant of certificate of registration of birth or death.
24. Duty of Registrars as to sending certified copies of entries in register books to Registrar General.
25. Searches and copies of entries in register books.
26. Exceptional provision for registration of certain births and deaths.

##### D.—Penalty for False Information.

27. Penalty for wilfully giving false information.

##### E.—Correction of Errors.

28. Correction of entry in register of births or deaths.

## CHAPTER IV.

## AMENDMENT OF MARRIAGE ACTS.

## SECTIONS.

29. Addition of new section after section 13, Act III of 1872.
30. Amendment of the Indian Christian Marriage Act, 1872.
31. Addition of new section after section 8 of the Parsi Marriage and Divorce Act, 1865.

## CHAPTER V.

## SPECIAL PROVISIONS AS TO CERTAIN EXISTING REGISTERS.

32. Permission to persons having custody of certain records to send them within one year to Registrar General.
33. Appointment of Commissioners to examine registers.
34. Duties of Commissioners.
35. Searches of lists prepared by Commissioners and grant of certified copies of entries.

## CHAPTER VI.

## RULES.

36. Power for Governor General in Council to make rules.
37. Procedure for making and publication of rules.

*An Act to provide for the voluntary Registration of certain Births and Deaths, for the establishment of General Registry Offices for keeping Registers of certain Births, Deaths and Marriages, and for certain other purposes.*

WHEREAS it is expedient to provide for the voluntary registration of births and deaths among certain classes of persons, for the more effectual registration of those births and deaths and of the marriages registered under Act III of 1872 or the Indian Christian Marriage Act, 1872, and of certain marriages registered under the Parsi Marriage and Divorce Act, 1865, and for the establishment of general registry offices for keeping registers of those births, deaths and marriages;

And whereas it is also expedient to provide for the authentication and custody of certain existing registers made otherwise than in the performance of a duty specially enjoined by the law of the country in which the registers were kept, and to declare that copies of the entries in those registers shall be admissible in evidence;

It is hereby enacted as follows:—

## CHAPTER I.

## PRELIMINARY.

1. (1) This Act may be called the Births, Deaths and Marriages Registration Act, 1886; and

(2) It shall come into force on such day as the Governor General in Council, by notification in the Gazette of India, directs.

(3) Any power conferred by this Act to make rules or to issue orders may be exercised at any time after the passing of this Act; but a rule or order so made or issued shall not take effect until the Act comes into force.

2. This Act extends to the whole of British India, and applies also, within the dominions of

Princes and States in India in alliance with Her Majesty, to British subjects in those dominions.

3. In this Act, unless there is something repugnant in the subject or context,—

“sign” includes mark, when the person making the mark is unable to write his name:

“prescribed” means prescribed by a rule made by the Governor General in Council under this Act: and

“Registrar of Births and Deaths” means a Registrar of Births and Deaths appointed under this Act.

4. Nothing in this Act, or in any rule made under this Act, shall affect any law heretofore or hereafter passed providing for the registration of births and deaths within particular local areas.

5. All powers conferred by this Act may be exercised from time to time as occasion requires.

## CHAPTER II.

## GENERAL REGISTRY OFFICES OF BIRTHS, DEATHS AND MARRIAGES.

Establishment of general registry offices and appointment of Registrars General.

6. (1) Each Local Government—

(a) shall establish a general registry office for keeping such certified copies of registers of births and deaths registered under this Act, or marriages registered under Act III of 1872 (to provide a form of marriage in certain cases) or the Indian Christian Marriage Act, 1872, or, beyond the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Bombay, under the Parsi Marriage and Divorce Act, 1865, as may be sent to it under this Act, or under any of the three last-mentioned Acts, as amended by this Act; and

(b) may appoint to the charge of that office an officer, to be called the Registrar General of Births, Deaths and Marriages, for the territories under its administration:

(2) Provided that the Governor of Bombay in Council may, with the previous sanction of the Governor General in Council, establish two general registry offices and appoint two Registrars General of Births, Deaths and Marriages for the territories under his administration; one of such general registry offices and of such Registrars General being established and appointed for Sindh and the other for the other territories under the administration of the Governor of Bombay in Council.

7. Each Registrar General of Births, Deaths and Marriages shall cause indexes of all the certified copies of registers sent to his office under this Act, or under Act III of 1872, the Indian Christian Marriage Act, 1872, or the Parsi Marriage and Divorce Act, 1865, as amended by this Act, to be made and kept in his office in the prescribed form.

8. Subject to the payment of the prescribed fees, the indexes so made shall be at all reasonable times open to inspection by any person applying to inspect them, and copies of entries in the certified copies of the registers to which the indexes relate shall be given to all persons applying for them.

XV of 1872.  
XV of 1865.

XV  
XV

XV  
XV



*The Births, Deaths and Marriages Registration Act, 1886.**(Chapter III.—Registration of Births and Deaths.—Sections 9-17.)*

9. A copy of an entry given under the last foregoing section shall be certified by the Registrar General of Births, Deaths and Marriages, or by an officer authorised in this behalf by the Local Government, and shall be admissible in evidence for the purpose of proving the birth, death or marriage to which the entry relates.

10. Each Registrar General of Births, Deaths and Marriages shall exercise a general superintendence over the Registrars of Births and Deaths in the territories for which he is appointed.

## CHAPTER III.

## REGISTRATION OF BIRTHS AND DEATHS.

*A.—Application of this Chapter.*

11. (1) The persons whose births and deaths shall, in the first instance, be registrable under this chapter are the following, namely:—

(a) in British India, the members of every race, sect or tribe to which the Indian Succession Act, 1865, applies, and in respect of which an order under section 332 of that Act is not for the time being in force, and all persons professing the Christian religion;

(b) in the dominions of Princes and States in India in alliance with Her Majesty, British subjects being members of a like race, sect or tribe, or professing the Christian religion:

(2) But the Local Government, by notification in the official Gazette, may, with the previous approval of the Governor General in Council, extend the operation of this chapter to any other class of persons either generally or in any local area.

*B.—Registration Establishment.*

12. The Local Government may appoint, either by name or by virtue of their office, so many persons as it thinks necessary to be Registrars of Births and Deaths for such local areas within the territories under its administration as it may define and, if it sees fit, for any class of persons within any part of those territories.

13. The Governor General in Council may, by notification in the Gazette of India, appoint, either by name or by virtue of their office, so many persons as he thinks necessary to be Registrars of Births and Deaths for such local areas within the dominions of any Prince or State in India in alliance with Her Majesty as

he may define and, if he sees fit, for any class of persons within any part of those dominions.

14. Every Registrar of Births and Deaths shall be deemed to be a public servant within the meaning of the Indian Penal Code.

XLV of 1860.

15. (1) The Local Government or the Governor General in Council, as the case may be, may suspend, remove or dismiss any Registrar of Births and Deaths.

(2) A Registrar of Births and Deaths may resign by notifying in writing to the Local Government or to the Governor General in Council, as the case may be, his intention to do so, and, on his resignation being accepted by the Local Government or the Governor General in Council, he shall be deemed to have vacated his office.

16. (1) Every Registrar of Births and Deaths shall have an office in the local area, or within the part of the territories or dominions, for which he is appointed.

(2) Every Registrar of Births and Deaths to whom the Local Government may direct this subsection to apply shall attend at his office for the purpose of registering births and deaths on such days and at such hours as the Registrar General of Births, Deaths and Marriages may direct, and shall cause to be placed in some conspicuous place on or near the outer door of his office his name, with the addition of Registrar of Births and Deaths for the local area or class for which he is appointed, and the days and hours of his attendance.

17. (1) When any Registrar of Births and Deaths to whom the Local Government may direct this section to apply, not being a Registrar of Births and Deaths for a local area in the town of Calcutta, Madras or Bombay, is absent, or when his office is temporarily vacant, any person whom the Registrar General of Births, Deaths and Marriages appoints in this behalf, or, in default of such appointment, the Judge of the District Court within the local limits of whose jurisdiction the Registrar's office is situate, or such other officer as the Local Government appoints in this behalf, shall be the Registrar of Births and Deaths during such absence or until the Local Government fills the vacancy.

(2) When any such Registrar of Births and Deaths for a local area in the town of Calcutta, Madras or Bombay is absent, or when his office is temporarily vacant, any person whom the Registrar General of Births, Deaths and Marriages appoints in this behalf shall be the Registrar of Births and Deaths during such absence or until the Local Government fills the vacancy.

*The Births, Deaths and Marriages Registration Act, 1886.**(Chapter III.—Registration of Births and Deaths.—Sections 18-24.)*

(3) The Registrar General of Births, Deaths and Marriages shall report to the Local Government all appointments made by him under this section.

18. The Local Government shall supply every Registrar of Births and Deaths with a sufficient number of register books of births and of register books of deaths, and shall make suitable provision for the preservation of the records connected with the registration of births and deaths.

*C.—Mode of Registration.*

19. Every Registrar of Births and Deaths, on receipt of notice of a birth or death within the local area or among the class for which he is appointed, shall, if the notice is given within the prescribed time and in the prescribed mode by a person authorized by this Act to give the notice, forthwith make an entry of the birth or death in the proper register book:

Provided that—

- (a) if he has reason to believe the notice to be in any respect false, he may refuse to register the birth or death until he receives an order from the Judge of the District Court directing him to make the entry and prescribing the manner in which the entry is to be made; and
- (b) he shall not enter in the register the name of any person as father of an illegitimate child, unless at the request of the mother and of the person acknowledging himself to be the father of the child.

Persons authorized to give notice of birth. 20. Any of the following persons may give notice of a birth, namely:—

- (a) the father or mother of the child;
- (b) any person present at the birth;
- (c) any person occupying, at the time of the birth, any part of the house wherein the child was born and having knowledge of the child having been born in the house;
- (d) any medical practitioner in attendance after the birth and having personal knowledge of the birth having occurred;
- (e) any person having charge of the child.

Persons authorized to give notice of death. 21. Any of the following persons may give notice of a death, namely:—

- (a) any relative of the deceased having knowledge of any of the particulars required to be registered concerning the death;
- (b) any person present at the death;
- (c) any person occupying, at the time of the death, any part of the house wherein

the death occurred and having knowledge of the deceased having died in the house;

(d) any person in attendance during the last illness of the deceased;

(e) any person who has seen the body of the deceased after death.

22. (1) When an entry of a birth or death has been made by the Registrar of Births and Deaths under section 19, the person giving notice of the birth or death must sign the entry in the register in the presence of the Registrar.

(2) Until the entry has been so signed, the birth or death shall not be deemed to be registered under this Act.

(3) When the birth of an illegitimate child is registered, and the mother and the person acknowledging himself to be the father of the child jointly request that that person may be registered as the father, the mother and that person must both sign the entry in the register in the presence of the Registrar.

23. The Registrar of Births and Deaths shall, on application made at the time of registering any birth or death by the person giving notice of the birth or death, and on payment by him of the prescribed fee, give to the applicant a certificate in the prescribed form, signed by the Registrar, of having registered the birth or death.

24. (1) Every Registrar of Births and Deaths in British India shall send to the Registrar General of Births, Deaths and Marriages for the territories within which the local area or class for which he is appointed is situate or resides, at the prescribed intervals, a true copy certified by him, in the prescribed form, of all the entries of births and deaths in the register book kept by him since the last of those intervals.

Provided that in the case of Registrars of Births and Deaths who are clergymen of the Churches of England, Rome and Scotland the Registrar may, if so directed by his ecclesiastical superior, send the certified copies in the first instance to that superior, who shall send them to the proper Registrar General of Births, Deaths and Marriages.

In this sub-section "Church of England" and "Church of Scotland" mean the Church of England and the Church of Scotland as by law established respectively; and "Church of Rome" means the Church which regards the Pope of Rome as its spiritual head.



*The Births, Deaths and Marriages Registration Act, 1886.**(Chapter III.—Registration of Births and Deaths.—Sections 25-32.)*

(2) The provisions of sub-section (1) shall apply to every Registrar of Births and Deaths in the dominions of any Prince or State in India in alliance with Her Majesty, with this modification that the certified copies referred to in that sub-section shall be sent to such one of the Registrars General of Births, Deaths and Marriages as the Governor General in Council, by notification in the Gazette of India, appoints in this behalf.

25. (1) Every Registrar of Births and Deaths shall, on payment of the prescribed fees, at all reasonable times, allow searches to be made in the register books kept by him, and give a copy of any entry in the same.

(2) Every copy of an entry in a register book given under this section shall be certified by the Registrar of Births and Deaths, and shall be admissible in evidence for the purpose of proving the birth or death to which the entry relates.

26. Notwithstanding anything in section 19, the Governor General in Council may make rules authorizing Registrars of Births and Deaths, on conditions and in circumstances to be specified in the rules, to register births and deaths occurring outside the local areas or classes for which they are appointed.

*D.—Penalty for False Information.*

27. If any person wilfully makes, or causes to be made, for the purpose of being inserted in any register of births or deaths, any false statement in connection with any notice of a birth or death under this Act, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

*E.—Correction of Errors.*

28. (1) If it is proved to the satisfaction of a Registrar of Births and Deaths that any entry of a birth or death in any register kept by him under this Act is erroneous in form or substance, he may, subject to such rules as may be made by the Governor General in Council with respect to the conditions and circumstances on and in which errors may be corrected, correct the error by entry in the margin, without any alteration of the original entry, and shall sign the marginal entry and add thereto the date of the correction.

(2) If a certified copy of the entry has already been sent to the Registrar General of Births, Deaths and Marriages, the Registrar of Births and Deaths shall make and send a separate certified copy of the original erroneous entry and of the marginal correction therein made.

## CHAPTER IV.

## AMENDMENT OF MARRIAGE ACTS.

29. After section 13 of Act III of 1872 (to provide a form of marriage in certain cases) the following section shall be inserted, namely:—

“13A. The Registrar shall send to the Re-

Transmission of certified copies of entries in marriage-certificate book to the Registrar General of Births, Deaths and Marriages.

gistrar General of Births, Deaths and Marriages for the territories within which his district is situate, at such intervals as the Governor General in Council, from time to time, directs, a true copy certified by him, in such form as the Governor General in Council, from time to time, prescribes, of all entries made by him in the said marriage-certificate book since the last of such intervals.”

Amendment of the Indian Christian Marriage Act, 1872.

30. In the Indian Christian Marriage Act, 1872, the following amendments shall be made, namely:—

- (a) at the end of section 3, the words “Registrar General of Births, Deaths and Marriages” means a Registrar General of Births, Deaths and Marriages appointed under the Births, Deaths and Marriages Registration Act, 1886,” shall be added;
- (b) for the words “Secretary to the Local Government”, wherever they occur, and for the words “Secretary to a Local Government” in section 79, the words “Registrar General of Births, Deaths and Marriages” shall be substituted;
- (c) for the words “at such places as the Local Government directs” in section 62 the words “in the office of the Registrar General of Births, Deaths and Marriages for the territories of the Local Government by which the person who keeps the register book was licensed” shall be substituted; and
- (d) in section 81, after the words “Registrar General of Births, Deaths and Marriages” the words “in England” shall be added.

Addition of new section after section 8 of the Parsi Marriage and Divorce Act, 1865.

31. After section 8 of the Parsi Marriage and Divorce Act, 1865, the following section shall be inserted, namely:—

“8A. Every Registrar, except the Registrar appointed by the Chief Justice of the High Court of Judicature at Bombay, shall, at such intervals as the Governor General in Council from time to time directs, send to the Registrar General of Births, Deaths and Marriages for the territories administered by the Local Government by which he was appointed a true copy certified by him, in such form as the Governor General, from time to time, prescribes, of all certificates entered by him in the said register of marriages since the last of such intervals.”

## CHAPTER V.

## SPECIAL PROVISIONS AS TO CERTAIN EXISTING REGISTERS.

32. If any person in British India, or in the dominions of any Prince or State in India in alliance with Her Majesty, has for the time being the custody of any register or record of

Permission to persons having custody of certain records to send them within one year to Registrar General.

*The Births, Deaths and Marriages Registration Act, 1886.*

*(Chapter V.—Special Provisions as to certain existing Registers.—Sections 33-37.)*

XV of 1872.  
XV of 1865.

birth, baptism, naming, dedication, death or burial of any persons of the classes referred to in section 11, sub-section (1), or of any register or record of marriage of any persons of the classes to which Act III of 1872 or the Indian Christian Marriage Act, 1872, or the Parsi Marriage and Divorce Act, 1865, applies, and if such register or record has been made otherwise than in performance of a duty specially enjoined by the law of the country in which the register or record was kept, he may, within one year from the date on which this Act comes into force, send the register or record to the office of the Registrar General of Births, Deaths and Marriages for the territories within which he resides, or, if he resides within the dominions of any such Prince or State as aforesaid, to such one of the Registrars General as aforesaid as the Governor General in Council, by notification in the Gazette of India, directs in this behalf.

**33. (1)** The Governor General in Council may appoint so many persons as he thinks fit to be Commissioners for examining the registers or records sent to the Registrar General of Births, Deaths and Marriages under the last foregoing section.

(2) The Commissioners so appointed shall hold office for such period as the Governor General in Council, by the order of appointment, or any subsequent order, directs.

**34. (1)** The Commissioners appointed under the last foregoing section shall enquire into the state, custody and authenticity of every such register or record as may be sent to the Registrar General of Births, Deaths and Marriages under section 32;

and shall deliver to the Registrar General a descriptive list or descriptive lists of all such registers or records, or portions of registers or records, as they find to be accurate and faithful.

(2) The list or lists shall contain the prescribed particulars and refer to the registers or records, or to the portions of the registers or records, in the prescribed manner.

(3) The Commissioners shall also certify in writing, upon some part of every separate book or volume containing any such register or record, or portion of a register or record, as is referred to in any list or lists made by the Commissioners, that it is one of the registers or records, or portions of registers or records, referred to in the said list or lists.

**35. (1)** Subject to the payment of the prescribed fees, the descriptive list or lists of registers or records, or portions of registers or records, delivered by the Commissioners to the Registrar General of Births, Deaths and Marriages shall be, at all reasonable times, open to inspection by any person applying to inspect it or them, and copies of entries in those registers or records shall be given to all persons applying for them.

(2) A copy of an entry given under this section shall be certified by the Registrar General of Births,

Deaths and Marriages, or by an officer or person authorized in this behalf by the Local Government, and shall be admissible in evidence for the purpose of proving the birth, baptism, naming, dedication, death, burial or marriage to which the entry relates.

## CHAPTER VI.

### RULES.

**36.** In addition to any other power to make rules impliedly or expressly conferred by this Act, the Governor General in Council may make rules—

- (a) to fix the fees payable under this Act;
- (b) to prescribe the forms required for the purposes of this Act;
- (c) to prescribe the time within which, and the mode in which, persons authorized under this Act to give notice of a birth or death to a Registrar of Births and Deaths must give the notice;
- (d) to prescribe the registers to be kept and the form and manner in which Registrars of Births and Deaths are to register births and deaths under this Act, and the intervals at which they are to send to the Registrar General of Births, Deaths and Marriages true copies of the entries of births and deaths in the registers kept by them;
- (e) to prescribe the particulars which the descriptive list or lists to be prepared by the Commissioners appointed under Chapter V are to contain, and the manner in which they are to refer to the registers or records, or portions of registers or records, to which they relate;
- (f) to prescribe the custody in which those registers or records are to be kept; and
- (g) generally to carry out the purposes of this Act.

**37. (1)** The Governor General in Council shall, before making rules under this Act, publish a draft of the proposed rules in such manner as may, in his opinion, be sufficient for the information of persons likely to be affected thereby.

(2) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(3) The Governor General in Council shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(4) Every rule made under this Act shall be published in the Gazette of India, and the publication in the Gazette of India of a rule purporting to be made under this Act shall be conclusive evidence that it has been duly made.

S. HARVEY JAMES,

*Offg. Secretary to the Government of India.*



The following Report of the Select Committee on the Bill to provide for the voluntary Registration of certain Births and Deaths, for the establishment of General Registry Offices for keeping Registers of certain Births, Deaths and Marriages, and for certain other purposes, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 5th February, 1886:—

### LEGISLATIVE DEPARTMENT.

WE, the undersigned, Members of the Select Committee to which the Bill to provide

From Bábú Behary Lal Chandra, Krishnaghur, dated 28th January, 1885 [Paper No. 1].

From Officiating Registrar, High Court, Calcutta, No. 919, dated 19th March, 1885, and enclosure [Papers No. 2].

From Officiating Secretary to Chief Commissioner, Assam, No. 557, dated 6th April, 1885, and enclosure [Papers No. 3].

From Chief Secretary to Government, Madras, No. 944, dated 9th April, 1885, and enclosures [Papers No. 4].

From Under-Secretary to Government, Bombay, No. 1406, dated 18th April, 1885, and enclosures [Papers No. 5].

From Officiating Secretary to Government, Punjab, No. 409, dated 20th April, 1885, and enclosures [Papers No. 6].

Extract, paragraph XIV, from the Proceedings of the Meerut Association, No. 20, dated 8th March, 1885 [Paper No. 7].

From Officiating Secretary to Chief Commissioner, British Burma, No. 334—11S.S., dated 17th April, 1885, and enclosures [Papers No. 8].

From Under-Secretary to Government, Bombay, No. 1452, dated 23rd April, 1885, and enclosures [Papers No. 9].

From Secretary to Chief Commissioner, Coorg, No. 112—131, dated 21st April, 1885 [Paper No. 10].

From Under-Secretary to Government, Bombay, No. 1575, dated 29th April, 1885, and enclosures [Papers No. 11].

From Chief Commissioner, Ajmer-Merwára, No. 442, dated 29th April, 1885, and enclosure [Papers No. 12].

From Officiating Secretary to Government, Punjab, No. 500, dated 13th May, 1885, and enclosure [Papers No. 13].

From Secretary for Berar to Resident, Hyderabad, No. 171G., dated 16th May, 1885 [Paper No. 14].

From Under-Secretary to Government, Bombay, No. 1829, dated 18th May, 1885, and enclosure [Papers No. 15].

From Secretary to Government, Bengal, No. 514, dated 16th May, 1885, and enclosures [Papers No. 16].

From Secretary to Government, North-Western Provinces and Oudh, No. 629—VII-28-18, dated 10th June, 1885, and enclosures [Papers No. 17].

From Assistant Secretary to Chief Commissioner Central Provinces, No. 2445—118, dated 30th June, 1885 [Paper No. 18].

for the voluntary Registration of certain Births and Deaths, for the establishment of General Registry Offices for keeping Registers of certain Births, Deaths and Marriages, and for certain other purposes, was referred, have considered the Bill and the papers noted on the margin, and have now the honour to submit this our Report.

2. We have, on the advice of a leading member of the Parsi community at Bombay, proposed to extend to the scattered Parsi communities resident beyond the local limits of the ordinary original civil jurisdiction of the High Court at Bombay the same provisions for the more effectual registration of marriages as

were proposed by the Bill to be conferred on the classes to whom Act III of 1872 and the Indian Christian Marriage Act, 1872, apply.

3. By section 11, sub-section (2), we propose to enable Local Governments, with the previous sanction of the Governor General in Council, to extend the operation of the chapter respecting the registration of births and deaths to any classes of the community which may be desirous of taking advantage of the provisions of that chapter.

4. By sections 12 and 13 we have proposed to enable Local Governments in British India, and the Governor General in Council in States in India in alliance with Her Majesty, to appoint Registrars of Births and Deaths for classes of persons as well as for local areas. It will thus be practicable to appoint ministers of religion to be Registrars of Births and Deaths for their own congregations only, without imposing on them duties for which they might have neither leisure nor inclination.

5. In section 14 we have provided that every Registrar of Births and Deaths shall be deemed to be a public servant. This provision appears to us to render it unnecessary to retain section 24 of the Bill as introduced.

6. By section 19 we have provided that if a Registrar of Births and Deaths has reason to believe any notice given to him to be in any respect false he may refuse to register the birth or death until he receives an order from the District Court directing him to make the entry and prescribing the manner in which the entry is to be made.

In the same section and in section 22, sub-section (3), we have reproduced the provisions of section 7 of the Statute 37 & 38 Vic., cap. 88.

7. In sections 20 and 21 we have classified, in a modified form, the persons authorised to give notices of births and deaths.

8. We have provided in section 24 that clergymen who may become Registrars of Births and Deaths shall send certified copies of the entries in their registers direct to the Registrar General unless they are required by their ecclesiastical superiors to transmit the copies through them.

9. By section 26 we have proposed to empower the Governor General in Council to make rules authorising Registrars of Births and Deaths, on conditions and in circumstances to be specified in the rules, to register births and deaths occurring outside the local areas or classes for which they have been appointed. Events occurring in the course of journeys or in places for which Registrars of Births and Deaths have not been appointed, may by those rules be made registrable.

10. We have made fine an alternative punishment for the offence made punishable under section 27.

11. To section 36 we have added a clause enabling the Governor General in Council to make rules as to the custody of registers and records sent to the Registrar General under section 32.

12. The other amendments of the Bill are unimportant and do not call for special remark.

13. In regard to the argument which has been urged in some of the papers before us that the existing registers of certain religious bodies are admissible in evidence, we are informed that the legal value of those registers has been questioned by high authority, on the ground that they are not maintained under any special injunction of law, or in the ordinary course of business, within the meaning of the Indian Evidence Act, 1872.

14. As regards the working of the proposed Act we understand that existing machinery will, so far as possible, be utilised, and that expenses will be defrayed from fees payable under the Act.

15. Other objections taken to the Bill are (a) that some Registrars may object to the provisions of section 16, sub-section (2), and (b) that difficulties may result from the requirement of section 22, sub-section (1), that the person giving notice of a birth or death must sign the entry in the register in the presence of the Registrar. As regards the first of these objections we observe that section 16, sub-section (2), will not apply to all Registrars, but only to those to whom the Local Government applies the sub-section. As regards the second objection the risk of difficulties arising may be diminished, if not removed, by provision being made, in the rules under clause (c) of section 36, for an enlargement under certain circumstances of the time within which notices may be given of births and deaths.

16. The publication ordered by the Council has been made as follows :—

*In English.*

<i>Gazette.</i>	<i>Date.</i>
Gazette of India ...	17th, 24th and 31st January, 1885.
Fort Saint George Gazette ...	10th February, 1885.
Bombay Government Gazette ...	22nd and 29th January, and 5th February, 1885.
Calcutta Gazette ...	21st and 28th January, and 4th February, 1885.
North-Western Provinces and Oudh Government Gazette ...	20th and 31st January, and 7th February, 1885.
Punjab Government Gazette ...	29th January, and 5th and 12th February, 1885.
Central Provinces Gazette ...	24th and 31st January, and 7th February, 1885.
British Burma Gazette ...	7th, 14th and 21st February, 1885.
Assam Gazette ...	7th, 14th and 21st February, 1885.
Coorg District Gazette ...	2nd March, 1885.

*In the Vernaculars.*

<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Madras	Telugu ...	31st March, 1885.
	Kanarese ...	8th April, 1885.
	Tamil ...	5th May, 1885.
	Hindustani ...	12th May, 1885.
	Malayalam ...	2nd June, 1885.
Bombay	Maráthí } ...	23rd April, 1885.
	Gujaráthí } ...	
Bengal	Kanarese ...	30th May, 1885.
	Bengalí ...	3rd, 10th and 17th February, 1885.
	Hindí ...	17th and 24th February, and 3rd March, 1885.
Punjab	Uriya ...	12th, 19th and 26th February, 1885.
	Urdu ...	2nd, 9th and 16th March, 1885.
	Maráthí ...	2nd, 9th and 16th May, 1885.
	Burmese ...	21st and 28th March, and 4th April, 1885.
Assam	Bengalí ...	21st February, 1885.

17. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

C. P. ILBERT.  
S. C. BAYLEY.  
PEARI MOHAN MUKERJI.  
H. St.A. GOODRICH.  
ROBERT STEEL.  
W. W. HUNTER.

*The 5th February, 1886.*

S. HARVEY JAMES,  
*Offg. Secretary to the Government of India.*



## GOVERNMENT OF INDIA.

## LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 8th March, 1886, and is hereby promulgated for general information :—

## NO. VII OF 1886.

*An Act to amend the Indian Registration Act, 1877.*

WHEREAS it is expedient to amend the Indian Registration Act, 1877, in manner hereinafter appearing; It is hereby enacted as follows :—

**I. (1)** This Act may be called the Indian Registration Act, 1886; and

**(2)** It shall come into force at once.

**2.** After clause (f) of section 17 of the Indian Registration Act, 1877, the following clause shall be inserted, that is to say :—

“(ff) any debenture issued by any such Company and not creating, declaring, assigning, limiting or extinguishing any right, title or interest to or in immoveable property except in so far as it entitles the holder to the security afforded by a registered instrument whereby the Company has mortgaged, conveyed or otherwise transferred the whole or part of its immoveable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures, or”.

**3. (1)** After clause (l) of section 17 of the same Act the following clause shall be added, that is to say :—

“(m) orders granting loans under the Agriculturists' Loans Act, 1884, and instruments for securing the repayment of loans made under that Act.”

**(2)** In section 58 of the same Act, for the words “or a copy of a certificate under the Land Improvement Act, 1871, sent by the Collector to be registered,” or, where the Land Improvement Loans Act, 1883, is in force, for the words “or a copy of an order under the Land Improvement Loans Act, 1883, sent by the Collector to

be registered,” there shall be substituted the following words, namely :—

“or a copy sent to a registering officer under section 89”.

**(3)** After the second paragraph of section 89 of the same Act the following paragraph shall be added, that is to say :—

“Every officer granting a loan under the Agriculturists' Loans Act, 1884, shall send a copy of any instrument whereby immoveable property is mortgaged for the purpose of securing the repayment of the loan, and, if any such property is mortgaged for the same purpose in the order granting the loan, a copy also of that order, to the registering officer within the local limits of whose jurisdiction the whole or any part of the property so mortgaged is situate, and such registering officer shall file the copy or copies, as the case may be, in his Book No. 1.”

**4.** After clause (m) of section 17 of the same Act as amended by this Act the following clause shall be added, that is to say :—

“(n) any endorsement on a mortgage-deed acknowledging the payment of the whole or any part of the mortgage-money, and any other receipt for payment of money due under a mortgage when the receipt does not purport to extinguish the mortgage.”

**5.** In the second paragraph of section 50 of the same Act, “(ff)” shall be inserted between “(f)” and “(g)”, and for the word and letter “and (l)” the letters and word “(l), (m) and (n)” shall be substituted.

**6. (1)** After clause (d) of section 90 of the same Act the following clause shall be inserted, that is to say :—

“(e) notices given under section 74, or section 76, of the Bombay Land-revenue Code, 1879, of relinquishment of occupancy by occupants, or of alienated land by holders of such land”.

**(2)** In section 91, for the word and letter “and (c)” the letters and word “(c) and (e)” shall be substituted.

**(3)** The said Act shall be construed as if the amendments made in it by this section had been made at the time the Act came into force.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

The following Report of the Select Committee on the Bill to amend the Indian Registration Act, 1877, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 5th February, 1886:—

### LEGISLATIVE DEPARTMENT.

WE, the undersigned, Members of the Select Committee to which the Bill to amend the Indian Registration Act,

1877, was referred, have considered the Bill and the papers noted on the margin, and have now the honour to submit this our Report.

2. The Bill as introduced has been approved by the authorities to whose criticism it was submitted. Some suggestions for the further amendment of the Act have been made; but, as the revision of the law relating to registration is understood to be under the consideration of the Government of India, we have deemed it advisable not to deal with them generally in this Bill. On one suggestion, however, we have deemed it necessary to act at once. It was that the law should declare receipts for payments of mortgage-money to be optionally, and not compulsorily, registrable. In connection with this suggestion we have considered the case reported at I. L. R. 6 All. 335, and the cases there cited, and the replies of Local Governments and High Courts to a letter addressed to them by the Government of India on the subject of those cases. The authorities to whom the letter was addressed are almost unanimously of opinion that, on grounds of convenience, receipts for payment of mortgage-money ought not to be compulsorily registrable. We concur in that opinion, and have added to the Bill a clause (section 4) excepting from the operation of clauses (b) and (c) of section 17 of the Act (i) any endorsement on a mortgage-deed acknowledging the payment of the whole or any part of the mortgage-money, whether the endorsement does or does not purport to extinguish the mortgage, and (ii) any other receipt for payment of money due under a mortgage when the receipt does not purport to extinguish the mortgage. In so framing the clause we have, as regards endorsements, followed the course recommended by the High Court at Bombay, and, as regards other receipts, the general tenor of the opinions expressed by the authorities whom the Government of India has consulted.

3. The amendments which the Bill renders it necessary to make in section 50 of the Act have been made in a separate clause (section 5).

4. The publication ordered by the Council has been made as follows:—

From Officiating Secretary to Chief Commissioner, Assam, No. 1223, dated 22nd July, 1885 [Paper No. 1].

From Officiating Secretary to Chief Commissioner, Central Provinces, No. 3004—140, dated 8th August, 1885, and enclosure [Papers No. 2].

From Registrar, High Court, Calcutta, No. 2344, dated 13th August, 1885 [Paper No. 3].

From Secretary to Chief Commissioner, Coorg, No. 896—123, dated 13th August, 1885 [Paper No. 4].

From Chief Secretary to Government, Madras, No. 2049, dated 7th August, 1885, and enclosures [Papers No. 5].

From Secretary for Berar to Resident, Hyderabad, No. 6—B.-C., dated 19th August, 1885 [Paper No. 6].

From Secretary to Government, North-Western Provinces and Oudh, No. 848—VII-144-13, dated 1st September, 1885 [Paper No. 7].

From Chief Secretary to Government, Bengal, No. 966 P. D., dated 29th August, 1885, and enclosures [Papers No. 8].

Endorsement by Chief Secretary to Government, Madras, No. 2184, dated 21st August, 1885, and enclosure [Papers No. 9].

From Under-Secretary to Government, Bombay, No. 7268, dated 8th September, 1885 [Paper No. 10].

From Registrar, High Court, Calcutta, No. 2705, dated 18th September, 1885, and enclosure [Papers No. 11].

From Officiating Secretary to Government, Punjab, No. 1430 S., dated 21st September, 1885, and enclosures [Papers No. 12].

From Officiating Secretary to Chief Commissioner, British Burma, No. 131—25 L., dated 8th October, 1885, and enclosure [Papers No. 13].

From Mr. P. V. Krishnaswami Ayer, First Grade Pleader, Trichinopoly, No. 389, dated 29th November, 1885 [Paper No. 14].

Circular from Secretary to Government of India, Legislative Department, Nos. 1581—86, dated 13th October, 1885, with replies [Papers No. 15].

From Chief Secretary to Government, Bengal, No. 273 P., dated 23rd January, 1886, and enclosures [Papers No. 16].

1877, was referred, have considered the Bill and the papers noted on the margin, and have now the honour to submit this our Report.

2. The Bill as introduced has been approved by the authorities to whose criticism it was submitted. Some suggestions for the further amendment of the Act have been made; but, as the revision of the law relating to registration is understood to be under the consideration of the Government of India, we have deemed it advisable not to deal with them generally in this Bill. On one suggestion, however, we have deemed it necessary to act at once. It was that the law should declare receipts for payments of mortgage-money to be optionally, and not compulsorily, registrable. In connection with this suggestion we have considered the case reported at I. L. R. 6 All. 335, and the cases there cited, and the replies of Local Governments and High Courts to a letter addressed to them by the Government of India on the subject of those cases. The authorities to whom the letter was addressed are almost unanimously of opinion that, on grounds of convenience, receipts for payment of mortgage-money ought not to be compulsorily registrable. We concur in that opinion, and have added to the Bill a clause (section 4) excepting from the operation of clauses (b) and (c) of section 17 of the Act (i) any endorsement on a mortgage-deed acknowledging the payment of the whole or any part of the mortgage-money, whether the endorsement does or does not purport to extinguish the mortgage, and (ii) any other receipt for payment of money due under a mortgage when the receipt does not purport to extinguish the mortgage. In so framing the clause we have, as regards endorsements, followed the course recommended by the High Court at Bombay, and, as regards other receipts, the general tenor of the opinions expressed by the authorities whom the Government of India has consulted.

3. The amendments which the Bill renders it necessary to make in section 50 of the Act have been made in a separate clause (section 5).

4. The publication ordered by the Council has been made as follows:—

#### In English.

Gazette.				Date.
Gazette of India	...	...	...	13th, 20th and 27th June, 1885.
Fort Saint George Gazette	...	...	...	30th June, 1885.
Bombay Government Gazette	...	...	...	18th and 25th June, and 2nd July, 1885.
Calcutta Gazette	...	...	...	24th June, and 1st and 8th July, 1885.
North-Western Provinces and Oudh Government Gazette	...	...	...	20th and 27th June, and 4th July, 1885.
Punjab Government Gazette	...	...	...	18th and 25th June, and 2nd July, 1885.
Central Provinces Gazette	...	...	...	20th and 27th June, and 4th July, 1885.
British Burma Gazette	...	...	...	4th, 11th and 18th July, 1885.
Assam Gazette	...	...	...	4th, 11th and 18th July, 1885.
Coorg District Gazette	...	...	...	1st August, 1885.
Sindh Official Gazette	...	...	...	2nd July, 1885.

#### In the Vernaculars.

Province.	Language.		Date.
Madras	...	Tamil	31st July, 1885.
	...	Telugu	Ditto.
	...	Hindustani	Ditto.
	...	Kanarese	7th August, 1885.
	...	Malayalam	Ditto.
Bombay	...	Maráthi	16th July, 1885.
	...	Gujaráthi	Ditto.
	...	Kanarese	Ditto.
	...	Sindhi	16th July, 1885.



<i>Province.</i>		<i>Language.</i>		<i>Date.</i>
Bengal	...	Bengali	...	14th, 21st and 28th July, 1885.
		Hindi	...	11th, 18th and 25th August, 1885.
Punjab	...	Urdu	...	27th July, and 3rd and 10th August, 1885.
Central Provinces	...	Maráthá	...	8th, 15th and 22nd August, 1885.
British Burma	...	Burmese	...	18th and 25th July, and 1st August, 1885.
Coorg	...	Kanarese	...	1st September, 1885.

5. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

C. P. ILBERT.

S. C. BAYLEY.

V. N. MANDLIK.

G. H. P. EVANS.

ROBERT STEEL.

W. W. HUNTER.

*The 5th February, 1886.*

S. HARVEY JAMES,

*Offg. Secretary to the Government of India.*

## GOVERNMENT OF INDIA.

## LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 8th March, 1886, and is hereby promulgated for general information :—

## ACT NO. VIII OF 1886.

*An Act to amend sections 12 and 13 of the Bengal Tenancy Act, 1885.*

WHEREAS it is expedient to amend sections 12 and 13 of the Bengal Tenancy Act, 1885, in manner hereinafter appearing ; It is hereby enacted as follows :—

1. In section 12, sub-section (2), before the word "mortgage" the word "usufructuary" shall be inserted.

2. (1) In section 13, sub-section (1), before the words "the Court" the words "or when a mortgage of a permanent tenure, other than an usufructuary mortgage thereof, is foreclosed," shall be inserted.

(2) In the same sub-section, before the word "require" the words "or making a decree or order absolute for the foreclosure," shall be inserted.

(3) In the same sub-section, before the words "to pay into Court" the words "or mortgagee" shall be inserted.

(4) In the same sub-section, before the words "on the landlord" the words "or final foreclosure" shall be inserted.

(5) In section 13, sub-section (2), before the words "the Court" the words "or the decree or order absolute for the foreclosure has been made," shall be inserted.

(6) In the same sub-section, before the words "in the prescribed form," the words "or final foreclosure" shall be inserted.

S. HARVEY JAMES,

*Offg. Secretary to the Government of India.*



## GOVERNMENT OF INDIA.

## LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 10th March, 1886, and is hereby promulgated for general information:—

## ACT NO. IX OF 1886.

*An Act to apply the Chutia Nagpur Encumbered Estates Act, 1876, to the Deo Estate in the Gaya District.*

WHEREAS Rájá Bhikam Narayan Singh Bahadur, of Deo in the district of Gaya, is subject to, and his immoveable property is charged with, debts and liabilities other than debts due, and liabilities incurred, to the Government;

And whereas the said Rájá has requested that the provisions of the Chutia Nagpur Encumbered Estates Act, 1876, be applied to his case;

And whereas the persons to whom the debts are due and the liabilities have been incurred have assented to the application of the Chutia Nagpur Encumbered Estates Act, 1876, to the case, on the condition that their title to receive the principal and interest due to them be in no way impaired thereby;

It is hereby enacted as follows:—

1. (1) This Act may be called the Deo Estate Short title and com. Act, 1886; and  
mencement. (2) It shall come into force at once.

2. The provisions of the Chutia Nagpur Encumbered Estates Act, 1876, as amended by Act V of 1884, may be applied to the case of the said Rájá Bhikam Narayan Singh Bahadur, subject to the following modifications, namely:—

(1) The expressions "Commissioner", "Deputy Commissioner" and "holder", where used in the said Act, shall be construed as referring to the Commissioner of the Patna division, the Collector

of the Gaya district and the said Rájá, respectively.

(2) Notwithstanding anything in section 2 of the said Act, the Commissioner may, without any further application from the said Rájá and without any further notification of the consent of the Lieutenant-Governor of Bengal, publish an order under that section appointing a manager and vesting in him the management of the whole of the immoveable property of or to which the said Rájá is then possessed or entitled in his own right, or which he is entitled to redeem, or which may be acquired by or devolve on him or his heir during the continuance of the management.

(3) Section 4 of the said Act shall be read as if after the words "and their families" the words "and persons entitled to receive maintenance from the property" were added.

(4) Notwithstanding anything in section 8—

the sums mentioned in column 2 and column 4 of the schedule to this Act, as principal and as balance due from the said Rájá on the thirty-first day of December, 1885, respectively,

and the rate of interest mentioned in column 3 of that schedule,

shall, save in so far as any error with respect thereto may be proved to the satisfaction of the Commissioner, be deemed to be justly due to the several persons mentioned in column 1 of the schedule.

(5) The scheme prepared and approved under section 11 of the said Act shall provide that out of the residue applicable under section 4 of that Act, after discharge of costs of management, to the settlement of debts and liabilities, interest at the rate of six per cent. per annum in respect of so much of the principal sum of six hundred and fifty thousand rupees as is for the time being due to the Mahárájá of Darbhanga shall be paid to the Mahárájá before any sum is paid thereout to any other creditor.

(6) The second clause of section 12 of the said Act shall be read as if for the words "at any time before a scheme has been approved by him under section 11" the words "at any time before the occurrence of either of the events mentioned in the first and third clauses of this section" were substituted.

(7) The power conferred on the manager by the second clause of section 16 of the said Act, to apply for the removal of a mortgagee or conditional vendee in possession, shall not be exercised.

(8) The exercise of the power of sale conferred by section 18 of the said Act shall be subject to the following conditions, namely :—

(a) that one month's notice shall be given to the Mahārājā of Darbhanga of the manager's intention to sell any property of which the said Mahārājā is mortgagee ;

(b) that until the debt due to the said Mahārājā has been reduced to the sum of six hundred and fifty thousand rupees no portion of the proceeds of the sale of any of that property shall, without the previous consent of the Mahārājā, be paid to any other creditor ; and

(c) that, except with the previous consent of the said Mahārājā, so much of that property shall be left unsold as will yield a yearly income sufficient, after compliance with the rest of the scheme prepared and approved under section 11 of the said Act, to meet the yearly interest for the time being payable to the Mahārājā.

(9) Section 23 of the said Act shall be read as if for the words "the Courts in Chutia Nagpur" the words "any Court" were substituted, and as if the following words were added to the section, namely :—"and a suit relating to a claim of maintenance from the property shall not be entertained by any such Court without the previous consent of the Commissioner".

3. Nothing contained in this Act shall be construed as affecting the priority of any debt due, or liability incurred, to the Government.

### SCHEDULE.

(See section 2, clause (4)).

Name of Creditor.	Principal.		Annual rate of interest per centum.	Balance due on the 31st December, 1886.	
1	2		3	4	
	Rs.	A. P.		Rs.	A. P.
Mahārājā Lachhmes-har Singh Bahadur of Darbhanga.	6,50,000	0 0	6	8,18,741	4 0
Bābū Kameshwar Prasad.	2,89,751	12 2	6	2,85,340	2 7
Ditto . . .	21,000	0 0	12	21,000	0 0
Ditto . . .	9,000	0 0	12	9,000	0 0
Sayyid Lutf Ali Khan Bahadur.	12,045	4 0	6	13,460	8 8
Nurjahan Begum .	9,405	0 0	6	10,571	10 1
Gosain Dalmirpuri .	5,000	0 0	6	6,535	0 0
Gosain Dalmirpuri and Bhakhi Singh.	5,400	0 0	6	4,850	0 0
Bābū Ramgopal Singh and Bābū Ram Kirpal Singh.	4,000	0 0	12	4,000	0 0
Ditto . . .	3,500	0 0	12	3,500	0 0
Ditto . . .	14,484	8 9	6	15,377	12 2
Sayyid-un-nissa Bibi .	29,660	0 0	18	53,725	1 0
Bābū Baijnath Singh .	13,503	13 9	12	17,996	1 10
Ditto . . .	777	8 5	Nil	777	8 5
Shaikh Imāman and Ramdhan Barai.	10,000	0 0	9	10,000	0 0
Bihari Lal Barik .	3,300	0 0	72	6,006	0 0
Ditto . . .	1,750	0 0	72	3,094	0 0
Lachhman Dās and Mathura Dās.	4,998	2 6	6	4,215	14 7
Ramkishn Dās . .	1,195	10 0	12	1,267	5 0
Narayan Sahu, Sheo Sahu, Bhichuk Sahu and Sheocharan Sahu.	3,500	0 0	12	3,052	12 0
Madho Singh . .	7,702	0 6	6	7,070	6 11
Raghubar Singh .	3,000	0 0	12	2,824	2 4
Bishn Saran Lal .	389	0 0	12	389	0 0
Mahārāni Balirāj Kunwar.	80,000	0 0	4½	80,000	0 0

S. HARVEY JAMES,

Offg. Secy. to the Govt. of India.



## GOVERNMENT OF INDIA.

## LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 12th March, 1886, and is hereby promulgated for general information:—

## ACT NO. X OF 1886.

*An Act to amend the Code of Criminal Procedure, 1882, and certain other Acts.*

WHEREAS it is expedient to amend the Code of Criminal Procedure, 1882, and certain other Acts; It is hereby enacted as follows:—

*Code of Criminal Procedure, 1882.*

1. In the last paragraph of section 31 of the Code of Criminal Procedure, 1882, for the words "any sentence of imprisonment for a term exceeding three years" the words "any sentence of imprisonment for a term exceeding four years, and any sentence of transportation," shall be substituted.

2. For section 34 of the same Code the following shall be substituted, namely:—

"34. The Court of a District Magistrate, specially empowered under section 30, may pass any sentence authorized by law, except a sentence of death or of transportation for a term exceeding seven years or of imprisonment for a term exceeding seven years; but any sentence of imprisonment for a term exceeding four years, and any sentence of transportation, shall be subject to confirmation by the Sessions Judge."

3. After section 55 of the same Code, and after section 56 thereof, the following shall be added, namely:—

"This section applies to the police in the towns of Calcutta and Bombay."

4. In sections 88 and 514 of the same Code, after the words "District Magistrate" the words "or Chief Presidency Magistrate" shall be inserted.

5. In section 110 of the same Code, for the words "Sub-divisional Magistrate or Magistrate of the first class specially empowered in this behalf by the Local Government" the words "or Sub-divisional Magistrate, or a Magistrate of the first class specially empowered in this behalf by the Local Government" shall be substituted.

6. In section 162 of the same Code the word "shall" shall be inserted before the words "be used".

7. In section 173 of the same Code, the following shall be substituted for the second paragraph, namely:—

"Where a superior officer of police has been appointed under section 158, the report shall, in any cases in which the Local Government by general or special order so directs, be submitted through that officer, and he may, pending the orders of the Magistrate, direct the officer in charge of the police-station to make further investigation."

8. In section 266 of the same Code, for the word and figures "section 307" the words and figures "sections 276 and 307" shall be substituted.

9. For the second paragraph of section 269 of the same Code the following shall be substituted, namely:—

"When the accused is charged at the same trial with several offences of which some are and some are not triable by jury, he shall be tried by jury for such of those offences as are triable by jury, and by the Court of Session, with the aid of the jurors as assessors, for such of them as are not triable by jury."

10. For section 398 of the same Code the following shall be substituted, namely:—

"398. (1) Nothing in section 396 or section 397 shall be held to excuse any person from any part of the punishment to which he is liable upon his former or subsequent conviction.

(2) When an award of imprisonment in default of payment of a fine is annexed to a substantive sentence of imprisonment, or to a sentence of transportation or penal servitude for an offence punishable with imprisonment, and the person undergoing the sentence is after its execution to undergo a further substantive sentence, or further substantive sentences, of imprisonment, transportation or penal servitude, effect shall not be given to the award of imprisonment in default of payment of the fine until the person has undergone the further sentence or sentences."

11. (1) For the third paragraph of section 401 of the same Code the following shall be substituted, namely:—

"If any condition on which a sentence has been suspended or remitted is, in the opinion of

the Governor General in Council or of the Local Government, as the case may be, not fulfilled, the Governor General in Council or the Local Government may cancel the suspension or remission, and thereupon the person in whose favour the sentence has been suspended or remitted may, if at large, be arrested by any Police-officer without warrant and remanded to undergo the unexpired portion of the sentence."

(2) After the third paragraph of the same section the following shall be inserted, namely:—

"The condition on which a sentence is suspended or remitted under this section may be one to be fulfilled by the person in whose favour the sentence is suspended or remitted, or one independent of his will."

12. After section 475 of the same Code the following sections shall be inserted, namely:—

"475A. The Governor General in Council may direct that any person whom the Local Government has ordered under this chapter to be confined in a lunatic asylum, jail or other place of safe custody, shall be removed from the place where he is confined to any lunatic asylum, jail or other place of safe custody in British India."

"475B. The Local Government may empower the officer in charge of the jail in which a person is confined under the provisions of section 466 or section 471 to discharge all or any of the functions of the Inspector General of Prisons under section 472, section 473 or section 474."

13. (1) For the first sentence of section 495 of the same Code the following shall be substituted, namely:—

"Any Magistrate inquiring into or trying any case may permit the prosecution to be conducted by any person other than an officer of police below a rank to be prescribed by the Local Government in this behalf with the previous sanction of the Governor General in Council."

(2) After the last sentence of the same section the following shall be added, namely:—

"An officer of police shall not be permitted to conduct the prosecution if he has taken any part in the investigation into the offence with respect to which the accused is being prosecuted."

14. In section 510 of the same Code, for the word "the" before the words "Chemical Examiner" where those words first occur, the word "any" shall be substituted.

15. After section 541 of the same Code the following shall be inserted, namely:—

"541A. (1) If any person liable to be imprisoned or committed to custody under this Code is in confinement in a civil jail, the Court or Magistrate ordering the imprisonment or commitment may direct that the person be removed to a criminal jail."

"(2) When a person is removed to a criminal jail under sub-section (1), he shall, on being released therefrom, be sent back to the civil jail, unless either—

"(a) three years have elapsed since he was removed to the criminal jail, in which case he shall be deemed to have been discharged from the civil jail under section 342 of the Code of Civil Procedure; or

"(b) the Court which ordered his imprisonment in the civil jail has certified to the officer in charge of the criminal jail that he is entitled to be discharged under section 341 of the Code of Civil Procedure."

16. After section 558 of the same Code the following section shall be added, namely:—

"559. A public servant having any duty to perform in connection with the sale of any property under this Code shall not purchase or bid for the property."

17. In Schedule II of the same Code, between the two lines of entries against section 211 of the Indian Penal Code the following shall be inserted, namely:—

Column 2.	Column 3.	Column 4.	Column 5.	Column 6.	Column 7.	Column 8.
"If offence charged be punishable with imprisonment for seven years."	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for seven years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class."

18. In the same Schedule, for section 225A and the line of entries against that section the following shall be substituted, namely:—

Column 1.	Column 2.	Column 3.	Column 4.	Column 5.	Column 6.	Column 7.	Column 8.
"225A	Omission to apprehend, or sufferance of escape, on part of public servant in cases not otherwise provided for—						
	(a) in case of intentional omission or sufferance.	Shall not arrest without warrant.	Ditto	Bailable	Ditto	Imprisonment of either description for three years, or fine, or both, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	(b) in case of negligent omission or sufferance.	Ditto	Summons.	Ditto	Ditto	Simple imprisonment for two years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
"225B	Resistance or obstruction to lawful apprehension, or escape or rescue, in cases not otherwise provided for.	May arrest without warrant.	Warrant	Ditto	Ditto	Imprisonment of either description for six months, or fine, or both.	Ditto."



19. In the part of Schedule III of the same Code entitled "*IV.—Ordinary Powers of a Sub-divisional Magistrate*," the following shall be inserted after the second article, namely:—

"(2A) Power to require security for good behaviour, section 110."

*Bombay District Police Act, 1867.*

VII of 1860. Amendment of Bombay District Police Act, 1867, are hereby repealed.

*Indian Penal Code.*

21. (1) In the second clause of section 40 of the Indian Penal Code, between the figures "66" and "71" the figures "67" shall be inserted.

(2) In the second clause of section 64 of the same Code, after the word "punishable" the words "with imprisonment or fine, or" shall be inserted.

22. In section 75 of the same Code, for the words "or to double the amount of punishment" to the end of the section, the following shall be substituted, namely:—

"or to imprisonment of either description for a term which may extend to ten years."

23. After the first paragraph of section 216 of the Indian Penal Code the following shall be inserted, namely:—

"'Offence' in this section includes also any act or omission of which a person is alleged to have been guilty out of British India which, if he had been guilty of it in British India, would have been punishable as an offence, and for which he is, under any law relating to extradition, or under the Fugitive Offenders Act, 1881, or otherwise, liable to be apprehended or detained in custody in British India; and every such act or omission shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in British India."

Substitution of new sections for section 225A of the Indian Penal Code, and repeal of section 651 of the Code of Civil Procedure.

45 Vic., 9. "225A. Whoever, being a public servant legally bound as such public servant to apprehend, or to keep in confinement, any person in any case not provided for in section 221, section 222 or section 223, or in any other law for the time being in force, omits to apprehend that person or suffers him to escape from confinement, shall be punished—

"(a) if he does so intentionally, with imprisonment of either description for a term

which may extend to three years, or with fine, or with both; and

"(b) if he does so negligently, with simple imprisonment for a term which may extend to two years, or with fine, or with both.

"225B. Whoever, in any case not provided for in section 224 or section 225 or in any other law for the time being in force, intentionally offers any resistance or illegal obstruction to the lawful apprehension of himself or of any other person, or escapes or attempts to escape from any custody in which he is lawfully detained, or rescues or attempts to rescue any other person from any custody in which that person is lawfully detained, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both."

(2) Section 651 of the Code of Civil Procedure XIV of 1882. is hereby repealed.

*Prisoners' Act, 1871.*

25. For sections 30, 31 and 32 of the Prisoners' Act, 1871, the following shall be substituted, namely:—

"30. When any person is, or has been, sentenced to imprisonment by any Court, or, in default of giving security for keeping the peace or maintaining good behaviour, has been committed to, or is detained in, prison under section 123 of the Code of Criminal Procedure, 1882, the Local Government, or (subject to its orders and under its control) the Inspector General of Prisons, may order his removal during the period for which he has been sentenced to imprisonment or the security has been ordered to be given, as the case may be, from the jail or place in which he is confined to any other jail or place of imprisonment within the territories subject to the same Local Government."

"31. (1) Whenever it appears to the Local Government that any person detained or imprisoned under any order or sentence of any Magistrate or Court is of unsound mind, that Government, by a warrant setting forth the grounds of belief that the person is of unsound mind, may order his removal to a lunatic asylum or other place of safe custody within the territories subject to the same Local Government, there to be kept and treated as the Local Government directs during the remainder of the term for which he has been ordered or sentenced to be detained or imprisoned, or, if on the expiration of that term it is certified by a medical officer that it is necessary for the safety of the prisoner or others that he should be further detained under medical care or treatment, then until he is discharged according to law."

"(2) When it appears to the Local Government that the prisoner has become of sound mind, that Government, by a warrant directed to the person having charge of the prisoner, shall, if the prisoner is still liable to be kept in custody, remand him to the prison from which he was removed or to another prison within the territories subject to the same Local Government, or, if the prisoner is no longer liable to be kept in custody, order him to be discharged.

"(3) The provisions of section 9 of Act XXXVI of 1858 (*relating to Lunatic Asylums*) shall apply to every person confined in a lunatic asylum under sub-section (1) after the expiration of the term for which he was ordered or sentenced to be detained or imprisoned; and the time during which a prisoner is confined in a lunatic asylum under that sub-section shall be reckoned as part of the term of detention or imprisonment which he may have been ordered or sentenced by the Magistrate or Court to undergo.

"(4) In any case in which a Local Government is competent under sub-section (1) to order the removal of a prisoner to a lunatic asylum or other

place of safe custody within the territories subject to the same Local Government, the Governor General in Council may order his removal to any lunatic asylum or other place of safe custody in any part of British India; and the provisions of this section respecting the custody, detention, remand and discharge of a prisoner removed by order of a Local Government shall, so far as they can be made applicable, apply to a prisoner removed by order of the Governor General in Council.

"32. When any person is, or has been, sentenced to imprisonment by any Court, or, in default of giving security for maintaining good behaviour, has been committed to, or is detained in, prison under section 123 of the Code of Criminal Procedure, 1882, the Governor General in Council may order his removal during the period for which he has been sentenced to imprisonment or the security has been ordered to be given, as the case may be, from the jail or place in which he is confined to any other jail or place of imprisonment in British India."

S. HARVEY JAMES,

*Offg. Secy. to the Government of India.*

The following Report of the Select Committee on the Bill to amend the Code of Criminal Procedure, 1882, the Bombay District Police Act, 1867, the Indian Penal Code and the Prisoners' Act, 1871, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 5th March, 1886:—

### LEGISLATIVE DEPARTMENT.

WE, the undersigned, Members of the Select Committee to which the Bill to amend the

- From Mr. P. R. Desai, Pleader, District Court, Satara, dated 27th August, 1885 [Paper No. 1].
- From Mr. Nowrojee Ardeser, Pleader, District Court, Broach, dated 31st August, 1885 [Paper No. 2].
- From Mr. Sorabshah Dadabhai Munsiff, No. 383, dated 5th September, 1885 [Paper No. 3].
- From Secretary for Berar to Resident, Hyderabad, No. 357G., dated 16th September, 1885 [Paper No. 4].
- From Secretary to Chief Commissioner, Coorg, No. 1103—142, dated 19th September, 1885 [Paper No. 5].
- From Chief Commissioner, Ajmer-Merwara, No. 1033, dated 22nd September, 1885 [Paper No. 6].
- From Officiating Secretary to Chief Commissioner, Assam, No. 1717, dated 21st September, 1885 [Paper No. 7].
- From Officiating Secretary to Chief Commissioner, Central Provinces, No. 3684—179, dated 22nd September, 1885 [Paper No. 8].
- From Chief Secretary to Government, Madras, No. 2429, dated 14th September, 1885, and enclosures [Papers No. 9].
- From Secretary to Government, North-Western Provinces and Oudh, No. 1861—VI-395-21, dated 10th October, 1885, and enclosures [Papers No. 10].
- From Chief Secretary to Government, Madras, No. 2647, dated 30th September, 1885, and enclosures [Papers No. 11].
- Supplementary Memorandum of Suggestions by Mr. P. R. Desai, Pleader, District Court, Satara, dated 24th October, 1885 [Paper No. 12].
- From Mr. P. V. Krishnaswami Ayer, First Grade Pleader, Trichinopoly, No. 388, dated 29th November, 1885 [Paper No. 13].
- From Officiating Secretary to Chief Commissioner, British Burma, No. 137—30L., dated 8th October, 1885, and enclosure [Papers No. 14].
- From Under-Secretary to Government, Bombay, No. 8050, dated 20th November, 1885, and enclosures [Papers No. 15].
- Suggestions by Mr. M. Subba Rao, First Grade Pleader, Mangalore, dated 5th December, 1885 [Paper No. 16].
- From Officiating Secretary to Government, Punjab, No. 1061, dated 18th December, 1885, and enclosures [Papers No. 17].
- From Registrar, High Court, Calcutta, No. 2414, dated 29th December, 1885, and enclosure [Papers No. 18].
- From Chief Secretary to Government, Bengal, No. 142J., dated 8th January, 1886, and enclosures [Papers No. 19].
- From Registrar, High Court, Calcutta, No. 274, dated 6th February, 1886 [Paper No. 20].

passing of the Code of Criminal Procedure, 1882. The papers laid before us contain numerous suggestions for other amendments in the Code. We have given our careful attention to these suggestions, but have come to the conclusion that, subject to a very few exceptions, it would not be expedient to act upon them without giving further notice to the public, and, for this reason, we have abstained from dealing with them in the present Bill. Among the sections to which our attention has been thus directed, and the propriety of amending which should, we

Code of Criminal Procedure, 1882, the Bombay District Police Act, 1867, the Indian Penal Code and the Prisoners' Act, 1871, was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

2. The object of the Bill was, as remarked in the Statement of Objects and Reasons, to correct certain minor defects of the criminal law which had been brought to the notice of the Government of India since the



think, be considered by the legislature on the next suitable opportunity, are section 107 (with advertence to the cases reported at I. L. R. 6 All. 26 and 11 Cal. 737), section 110 (with respect to habitual protectors or harbourers of thieves and habitual aiders in the concealment or disposal of stolen property), section 145 (with advertence to the case reported at I. L. R. 11 Cal. 413), section 9 or section 193 (with respect to the powers of Additional or Joint Sessions Judges), section 239 (with respect to the meaning of the words "in the same transaction"), section 348 (for applying the procedure of section 349 to habitual offenders forwarded to the Court of Session), and section 437 (for the purpose of reconciling the conflicting rulings as to the meaning of the words "further inquiry").

3. We will now notice in consecutive order such sections of the Bill as appear to us to call for remark.

4. *Sections 1 and 2.*—There are sections of the Indian Penal Code under which transportation for shorter terms than seven years may be awarded, but we are of opinion that any sentence of transportation passed by an Assistant Sessions Judge or District Magistrate should be subject to confirmation by the Sessions Judge.

5. *Section 3.*—We have added this section at the instance of the Government of Bengal. It appears to us that sections 55 and 56 of the Code should apply to the police in the towns of Calcutta and Bombay as they do to the police in the town of Madras and in the rest of British India.

6. *Section 4.*—The Chief Presidency Magistrate of Madras has pointed out that there is the same defect in section 514 as in section 88.

7. *Section 7.*—The practice of submitting final police reports through a superior officer of police depends on circumstances varying from season to season and from province to province and even from district to district, and should, in our opinion, be left to be regulated by the Local Government.

8. *Section 9.*—We have, on the recommendation of the Madras Government and High Court, amended section 269 of the Code so that, where an accused person is charged at the same trial with several offences of which some are and some are not triable by jury, he shall be tried by jury for such of those offences as are triable by jury, and by the Court of Session, with the aid of the jurors as assessors, for such of them as are not triable by jury.

9. *Section 10.*—The object of the amendment made by this section is to secure uniformity of practice with respect to the time when imprisonment in default of payment of fine is to be undergone where there are other substantive sentences of imprisonment to be undergone after the execution of the sentence to which the award of imprisonment in default of payment of fine was annexed.

10. *Section 11.*—There has been some misunderstanding in regard to the proposed amendment of section 401. It was originally proposed to meet a technical difficulty arising out of the case of a prisoner who had become insane after his discharge, and it appears to us that in the case of political offenders it may be useful as enabling the Government to set them at large on the understanding that, if any movement with which they were connected revives, they will, in the interests of the public safety, be re-arrested and detained until either the movement again subsides or they complete their sentences, whichever event may first occur.

11. *Section 12.*—We have, on the recommendation of the Bombay Government, authorised Local Governments to empower officers in charge of jails to discharge certain functions of the Inspector General of Prisons. It is often impossible for the Inspector General punctually to discharge the functions personally.

12. *Section 13.*—Difficulty has been caused by the specification in the Code of the rank of the police-officer who may be permitted to conduct a prosecution. Inspectors are officers of different rank in different parts of the country. We have, therefore, left it to Local Governments to prescribe the rank with the previous sanction of the Governor General in Council, but we have provided that an officer of police shall not be permitted to conduct the prosecution if he has taken any part in the investigation into the offence with respect to which the accused is being prosecuted.

13. *Section 16.*—A case which has recently occurred in the Bombay Presidency has suggested the introduction into the Code of Criminal Procedure of a section on the lines of section 292 of the Code of Civil Procedure.

14. *Section 17.*—This section in the Bill has been misunderstood. In Schedule II to the Code of Criminal Procedure as it now stands, the punishment for making a false charge of an offence punishable with imprisonment for a term of seven years appears as imprisonment for two years only, whereas the punishment may under the Indian Penal Code be imprisonment extending to seven years.

15. *Section 21.*—The object of this section is to make the provisions of section 67 of the Indian Penal Code applicable to all fines imposed under any law, and to make it clear that section 64 applies to offences punishable with imprisonment or fine as well as to offences punishable with both imprisonment and fine.

16. *Section 22.*—We agree with the Government of the North-Western Provinces and Oudh, the High Court at Madras and the other authorities who have directed attention to section 75 of the Indian Penal Code, in considering that the alternative penalties prescribed by the section must often be either inadequate or excessive, and that a wider discretion should be given to the Courts. We have provided therefore that on repeated conviction of an offence

punishable under Chapter XII or Chapter XVII of the Indian Penal Code the offender shall be subject to transportation for life or, in the discretion of the Court, to imprisonment for any term not exceeding ten years.

17. *Section 23.*—At present there is no provision of law for the punishment of a person who, knowing that a warrant has been issued by a Magistrate for the apprehension of a foreign subject under the Foreign Jurisdiction and Extradition Act, 1879, harbours that subject. The inconvenience resulting from the absence of such a provision has been pointed out by the Government of the North-Western Provinces and Oudh, and ought in our opinion to be removed.

18. *Section 24.*—We have added a section suggested by the case reported at I. L. R. 12 Cal. 190.

19. *Section 25.*—We have proposed to re-enact in an amended form the whole of the three sections of the Prisoners' Act, 1871, relating to the removal of prisoners, instead of merely patching the existing sections.

20. The publication ordered by the Council has been made as follows:—

*In English.*

<i>Gazette.</i>	<i>Date.</i>
Gazette of India ... ..	25th July, and 1st and 8th August, 1885.
Fort Saint George Gazette ... ..	14th August, 1885.
Bombay Government Gazette ... ..	30th July, and 6th and 13th August, 1885.
Calcutta Gazette ... ..	5th, 12th and 19th August, 1885.
North-Western Provinces and Oudh Government Gazette...	1st, 8th and 15th August, 1885.
Punjab Government Gazette ... ..	30th July, and 6th and 13th August, 1885.
Central Provinces Gazette ... ..	1st, 8th and 15th August, 1885.
British Burma Gazette ... ..	15th, 22nd and 29th August, 1885.
Assam Gazette ... ..	15th, 22nd and 29th August, 1885.
Coorg District Gazette ... ..	1st September, 1885.

*In the Vernaculars.*

<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Madras ... ..	Tamil ... ..	... 23rd October, 1885.
	Telegu ... ..	... 25th September, 1885.
	Hindustani ... ..	... 3rd October, 1885.
Bombay ... ..	Maráthi... ..	} 27th August, 1885.
	Gujaráthi ... ..	
	Kanarese ... ..	
Bengal ... ..	Bengali ... ..	... 22nd and 29th September, and 6th October, 1885.
	Hindi ... ..	... 13th, 20th and 27th October, 1885.
	Uriya ... ..	... 15th, 22nd and 29th October, 1885.
North-Western Provinces and Oudh...	Urdu ... ..	... 29th August, and 5th and 12th September, 1885.
Punjab ... ..	Urdu ... ..	... 27th August, 1885.
Central Provinces ... ..	Hindi ... ..	... 5th, 12th and 19th September, 1885.
British Burma ... ..	Maráthi... ..	... 12th, 19th and 26th September, 1885.
	Burmese ... ..	... 12th, 19th and 26th September, 1885.

21. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

C. P. ILBERT.  
S. C. BAYLEY.  
W. W. HUNTER.  
G. H. P. EVANS.\*  
PEÁRI MOHAN MUKERJI.  
H. St.A. GOODRICH.  
J. W. QUINTON.  
V. N. MANDLIK.

*The 5th March, 1886.*

\* I much doubt the advisability of amending section 107 in the direction suggested.

S. HARVEY JAMES,  
*Offg. Secretary to the Government of India.*



## GOVERNMENT OF INDIA.

## LEGISLATIVE DEPARTMENT.

[ Second publication.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 12th March, 1886, and is hereby promulgated for general information :—

ACT NO. XI OF 1886.

THE INDIAN TRAMWAYS ACT,  
1886.

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*An Act to facilitate the construction and to regulate the working of Tramways.*

WHEREAS it is expedient to facilitate the construction and to regulate the working of tramways; It is hereby enacted as follows:—

*Preliminary.*

Short title and commencement. 1. (1) This Act may be called the Indian Tramways Act, 1886; and

(2) It shall come into force at once.

Local extent. 2. (1) It extends in the first instance to the whole of British India, except the territories administered by the Governor of Fort Saint George in Council, the Governor of Bombay in Council and the Lieutenant-Governor of Bengal.

(2) But the Governor of Fort Saint George in Council, the Governor of Bombay in Council or the Lieutenant-Governor of Bengal may, by notification in the official Gazette, extend this Act to the whole or any part of the territories under his administration.

Definitions. 3. In this Act, unless there is something repugnant in the subject or context,—

(1) "local authority" means a municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund:

(2) "road" means the way of a road, street, thoroughfare, passage or place along or across which a tramway authorised under this Act is, or is intended to be, laid, and includes the surface-soil and sub-soil of a road, and the footway, berms, drains and ditches of a road, and any bridge, culvert or causeway forming part of a road:

(3) "road-authority", in relation to a road, means—

(a) if a local authority maintains and repairs the road, then that authority;

(b) if a local authority does not maintain and repair the road, and the road is neither vested in Her Majesty nor maintained and repaired by the Government, then the person in whom the road is vested; and

(c) if a local authority does not maintain and repair the road, and the road is vested in Her Majesty or maintained and repaired by the Government, then the Local Government:

(4) "circle", in relation to a local authority or road-authority, means the area within the control of that authority:

(5) "tramway" means a tramway, or any part of a tramway, or any siding, turnout, connection, line or track belonging to a tramway:

(6) "order" means an order authorising the construction of a tramway under this Act, and includes a further order substituted for, or amending, extending or varying, that order:

(7) "promoter" means a local authority or person in whose favour an order has been made, and includes a local authority or person on whom the rights and liabilities conferred and imposed on the promoter by this Act and by the order and any rules made under this Act as to the construction, maintenance and use of the tramway, have devolved:

(8) "undertaking" includes all moveable and immoveable property of the promoter suitable to and used by him for the purposes of the tramway:

(9) "carriage", in the case of a tramway on which steam-power or any other mechanical power is used, includes an engine worked on the tramway for the purpose of producing that power:

(10) "toll" includes any charge leviable in respect of the use of a tramway:

(11) "lessee" means a person to whom a lease has been granted of the right of user of a tramway and of demanding and taking the authorised tolls:

(12) "District Magistrate" includes an officer empowered by the Local Government by name or by virtue of his office to discharge within any local area all or any of the functions of a District Magistrate under this Act:

(13) "District Court" means a principal Civil Court of original jurisdiction, and includes a High Court having ordinary original civil jurisdiction:

(14) "Collector" means the chief officer in charge of the revenue-administration of a district, and includes an officer empowered by the Local Government by name or by virtue of his office to discharge within any local area the functions of a Collector under this Act: and

(15) "prescribed" means prescribed by rules made by the Local Government under this Act.

*Orders authorising the Construction of Tramways.*

4. (1) The Local Government may make an Application for and order authorising the construction of a tramway in a circle on application made—

(a) by the local authority of the circle with the consent of the road-authority of any road or part of a road which is to be traversed by the tramway and of which the local authority is not itself the road-authority; or



*The Indian Tramways Act, 1886.**(Orders authorising the Construction of Tramways.—Sections 5-7.)*

- (b) by any person with the consent of the local authority of the circle, and of the road-authority of any road or part of a road which is to be traversed by the tramway and of which the local authority is not the road-authority :

Provided that, if any part of the proposed tramway is to traverse land which is not included within the limits of a municipality or of a cantonment, the Local Government shall not make the order without the previous sanction of the Governor General in Council.

(2) A local authority shall not make an application for an order, or be deemed to consent to an application being made by any person for an order, unless the making of the application or the giving of the consent has been approved by the local authority in manner prescribed.

5. When it is proposed to lay a tramway in two or more circles, and a local authority or road-authority having control in either or any of the circles does not consent thereto, or attaches conditions to its consent, the Local Government may, nevertheless, make an order authorising the construction of the tramway in the circle, or by the order impose on the promoter any conditions which it deems fit, if, after considering the reasons of the authority for withholding its consent or attaching the conditions thereto, it is satisfied that the construction of the tramway in the circle is expedient, or, as the case may be, that the conditions attached by the authority to its consent ought not to be imposed.

6. (1) The Local Government on receiving an application shall consider it, and, if satisfied as to the propriety of proceeding thereon, publish in the official Gazette, and in such other manner as it deems sufficient for giving information to persons interested, a draft of a proposed order authorising the construction of the tramway.

(2) A notice shall be published with the draft stating that any objection or suggestion which any person may desire to make with respect to the proposed order will, if submitted to the Local Government on or before a date to be specified in the notice, be received and considered.

(3) If, after considering any objections or suggestions which may have been made with respect to the draft on or before the date so specified, the Local Government is of opinion that the application should be granted, with or without addition or modification, or subject or not to any restriction or condition, it may make an order accordingly.

(4) Every order authorising the construction of a tramway shall be published in the official

Gazette in English, and in the other prescribed language or languages, if any; and that publication shall be conclusive proof that the order has been made as required by this section.

7. (1) An order made under section 6 shall empower the promoter therein specified to construct and maintain the tramway therein described in the manner therein provided, and shall specify the time within which the tramway shall be commenced and the time within which it shall be completed and opened for public traffic.

(2) The order may also provide, in manner consistent with this Act, for all or any of the following, among other matters, that is to say :—

- (a) a period before the expiration of which the tramway shall not be commenced, and the conditions subject to which the local authority, when it is not itself the promoter, may, within that period, elect to be substituted in the place of the promoter in respect of the undertaking or of so much thereof as is within its circle; and the limits of time within which, and the terms upon which, the local authority may, after the tramway has been constructed, require the promoter to sell to it the undertaking or so much thereof as is within its circle;
- (b) the acquisition by the promoter of land for the purposes of the tramway, and the disposal by him of land which has been acquired but is no longer required for those purposes;
- (c) the conditions subject to which roads may be opened and broken up for the purposes of the construction or maintenance of the tramway or any part thereof, and the method of, and materials to be used in, the re-instating of the roads, and the approval of the method and materials by the Local Government or the road-authority before the commencement of the work;
- (d) the conditions on which the tramway may be constructed over a bridge or across a railway or tramway when the carriageway over the bridge is to form part of the tramway or when the tramway is to cross a railway or another tramway on the level;
- (e) the space which shall ordinarily intervene between the outside of the carriageway on either side of a road whereon the tramway is to be constructed and the nearest rail of the tramway, and the conditions on which a smaller space may be permitted;
- (f) the gauge of the tramway; the rails to be used, and the mode in which

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- and the level at which, they shall be laid and maintained; and the adoption and application by the promoter of such improvements in the rails, and in their situation, and in the sub-structure upon which they rest, as the Local Government may from time to time require;
- (g) the portion of the road or roads traversed by the tramway to be kept in repair by the promoter; the maintenance by the promoter to the satisfaction of the Local Government or the road-authority, or both, of that portion of the road or roads; and the liability of the promoter, on the requisition of the Local Government, from time to time to adopt and apply such improvements in the tramway as the Local Government may consider necessary or desirable for the safety or convenience of the public, and to alter the position or level of the tramway to suit future alterations in the road or roads;
- (h) the application of material excavated by the promoter in the construction or maintenance of the tramway;
- (i) the provision of such crossings, passing-places, sidings, junctions and other works, in addition to those specified in or authorised by the order, as may from time to time be necessary or convenient to the efficient working of the tramway;
- (j) the powers which may from time to time be exercised by the Local Government, the local authority, the road-authority or any person in respect of sewers, drains, telegraph-lines, gas-pipes, water-pipes or other things in or on land occupied by the tramway; the notice (if any) to be given of the intended exercise of those powers; the manner in which the powers shall be exercised; and the extent to which the tramway and the traffic thereon may be interfered with in the exercise thereof;
- (k) the conditions subject to which the promoter may from time to time interfere with, or alter or require the alteration of, the position of, drains (not being sewers or main drains), telegraph-lines, gas-pipes, water-pipes or other things as aforesaid;
- (l) the provision of a temporary tramway in place of a part of a tramway which has been removed, or of which the use has been discontinued, by reason of the execution of any work affecting a road along which the part of the tramway was laid, or by reason of the use of the road being interrupted by floods or other cause;
- (m) the motive power to be used on the tramway, and the conditions on which steam-power or any other mechanical power may be used;
- (n) the nature, dimensions, fittings, appliances and apparatus of the carriages to be used on the tramway, and the inspection and examination thereof by officers of the Local Government or the local authority, and the liability of the promoter or lessee, on the requisition of the Local Government, from time to time, to adopt and apply such improvements in the carriages, and in the fittings, appliances and apparatus, as the Local Government may consider necessary or desirable for the safety or convenience of the public;
- (o) the traffic which may be carried on the tramway, the traffic which the promoter or lessee shall be bound to carry, and the traffic which he may refuse to carry; the tolls to be leviable by the promoter or lessee, and the periodical revision thereof by the Local Government; and the regulation of the traffic and of the levy of the tolls;
- (p) the use of the tramway free of toll by the local authority, with its own carriages, for specified purposes, during specified hours, with power to the local authority to make such sidings and other works as may be necessary for communication between its premises and the tramway;
- (q) the conditions subject to which the promoter may transfer the undertaking, or any part thereof, by sale, mortgage, lease, exchange or otherwise; and the conditions subject to which the local authority may be the transferee;
- (r) the performance by the Local Government or by the local authority or road-authority of any work required by the Act or the order to be done by the promoter; and
- (s) the penalty to be incurred by the promoter or lessee for failure to observe any condition or direction contained in the order, and the application of the penalty when recovered.
- (3) The Local Government may, in providing in the order for the acquisition of land for the purposes of a tramway of which the promoter is not a company, direct that land may be acquired for the promoter under the provisions of the Land Acquisition Act, 1870, in the same manner and on the same conditions as it might be acquired for the purposes of the tramway if a company were the promoter.
- (4) The order shall imply the condition—
- (a) in the case of a tramway of which a local authority is the promoter, that a lease thereof shall be granted only in manner by this Act provided; and
- (b) in the case of a tramway of which a local authority is not the promoter, that a lease thereof shall be only of the right of user



*The Indian Tramways Act, 1886.**(Orders authorising the Construction of Tramways.—Construction and Maintenance of Tramways.—Traffic on Tramways.—Sections 8-14.)*

and of demanding and taking the authorised tolls, and shall not confer or impose on the lessee any of the powers or duties of the promoter in respect of the construction or maintenance of the tramway.

8. (1) The Local Government may, on the application of the promoter, revoke, amend, extend or vary the order by a further order.

(2) An application for a further order shall be made in the same manner and subject to the same conditions as an application for an order.

(3) The Local Government may, in its discretion, either grant or reject the application.

(4) If it grants the application, it shall make the further order in the same manner as an order, except that no addition to, or modification of, the rights, powers and authorities asked for in the application, or restriction or condition with respect thereto, shall be made or imposed by the further order without the consent in writing of the promoter.

9. (1) Subject to, and in accordance with, the provisions of this Act, the Local Government may, on a joint application, or on two or more separate applications, make an order empowering two or more local authorities, respectively, jointly to construct the whole, or separately to construct parts, of a tramway, and jointly or separately to own the whole or parts thereof.

(2) All the provisions of this Act which relate to the construction of tramways shall extend and apply to the construction of the whole and the separate parts of the tramway, and the form of the order may be adapted to the circumstances of the case.

10. (1) If a promoter authorised by an order to construct a tramway—

(a) does not within the time specified in the order substantially commence the construction of the tramway, or

(b) having commenced the construction, suspends it without a reason sufficient in the opinion of the Local Government to warrant the suspension, or

(c) does not within the time specified in the order complete the tramway and open it for public traffic,

the following consequences shall ensue:—

(i) the powers given by the order to the promoter for constructing the tramway and otherwise in relation thereto shall, unless the Local Government, by special direction in writing, prolongs the time or condones the suspension, cease to be exercised except as to so much of the tramway as is then completed;

(ii) as to so much of the tramway as is then completed, the Local Government may either permit, or refuse to permit, the powers given by the order to continue;

(iii) if the Local Government refuses to permit the powers to continue, then so much of the tramway as is then completed may be dealt with, under the provisions of this Act relating to the discontinuance of tramways, as a tramway of the working whereof the discontinuance has been proved to the satisfaction of the Local Government.

(2) A notification published by the Local Government in the official Gazette to the effect that on a date specified in the notification the construction of a tramway had not been substantially commenced or a tramway had not been completed and opened for public traffic, or that the construction of a tramway had been suspended without sufficient reason, shall, for the purposes of this section, be conclusive proof of the matter stated therein.

*Construction and Maintenance of Tramways.*

11. A tramway shall be constructed and maintained in the manner provided by the order.

12. A tramway, or portion or extension of, or addition to, a tramway, shall not be opened for public traffic until an engineer appointed in this behalf by the Local Government has inspected it and certified it to be fit for such traffic.

13. Subject to the provisions of any order for the time being in force with respect to the matters mentioned in section 7, subsection (2), clause (g), the road-authority and the promoter may from time to time enter into agreements as to the keeping in repair of the whole or a part of a road traversed by a tramway, and as to the proportion to be paid by either of them of the expense of keeping the road or part in repair.

*Traffic on Tramways.*

14. (1) The promoter of a tramway shall, subject to the provisions of subsection (2) and to the other provisions of this Act and of the order, have the exclusive use of the tramway for carriages with flange-wheels or other wheels suitable to run on the rail described in the order as the rail to be used on the tramway:

Provided that nothing in this Act or in the order or any rule made under this Act shall affect the right of any person authorised to use a tramway or railway to pass across a tramway constructed under this Act with carriages having wheels suitable to run on the rail thereof.

*The Indian Tramways Act, 1886.**(Traffic on Tramways.—Licenses to use Tramways.—Secs. 15-18.)*

(2) The public shall have a right to pass along or across any part of a road along or across which a tramway is constructed, whether on or off the tramway, with carriages not having flange-wheels or other wheels suitable to run on the rail of the tramway: Provided—

- (a) that this sub-section shall not apply where the tramway is constructed on land the right to the exclusive possession of which has been acquired by the promoter; and
- (b) that the Local Government may by an order authorise the construction of a tramway on any part of a road with rails raised above the surface of the road, if it is satisfied that the convenience of the public will not be injuriously affected thereby.

15. (1) The promoter or lessee may demand and take, in respect of the tramway, tolls leviable by promoter or lessee, not exceeding the limits specified in or determinable under the order, or, if the order contains no provision in this behalf, then such sums as may from time to time be fixed by the promoter or lessee with the previous sanction of the Local Government.

(2) A list of all the tolls authorised to be levied shall be exhibited, in such languages as the District Magistrate may direct, in a conspicuous place inside and outside each of the carriages used upon the tramway.

16. (1) A person shall not be entitled to carry or to require to be carried, on a tramway constructed under this Act, any goods of a dangerous or offensive nature.

(2) A person taking such goods with him on the tramway shall, before entering the carriage, give notice of their nature to the servant of the promoter or lessee in charge of the carriage.

(3) A person sending such goods by the tramway shall distinctly mark their nature on the outside of the package containing them, or otherwise give notice thereof in writing to the servant of the promoter or lessee with whom he leaves them for the purpose of their being sent by the tramway.

(4) Any servant of the promoter or lessee may refuse to carry upon the tramway a parcel which he suspects to contain goods of a dangerous or offensive nature, and, if any such parcel has been received for the purpose of being carried upon the tramway, may stop the transit thereof until he is satisfied as to the nature of its contents.

(5) Where a servant of the promoter or lessee refuses under sub-section (4) to carry a parcel which has been received for the purpose of being carried upon the tramway, he shall, as soon as may be, give notice of his refusal to the consignor or consignee if he refuses at a time when neither of them is present.

*Licenses to use Tramways.*

17. If, at any time after a tramway or part of a tramway has been for three years opened for public traffic in a circle, the local authority of the circle represents in writing to the Local Government that the public is deprived of the full benefit of the tramway or of the part thereof, the Local Government may, if after considering any statement which the promoter or lessee or both may desire to make, and after such further enquiry as it deems necessary, it is satisfied as to the truth of the representation, grant a license to any person to use the tramway conformably to this Act and to the order and the rules made under this Act, subject to the following provisions, namely:—

- (a) the license shall be for a period not less than one year or more than three years from the date of the license, but the Local Government may in its discretion renew it;
- (b) the license shall be to use the whole of the tramway for the time being opened for public traffic, or such part or parts of the tramway as the Local Government, having regard to the cause for granting the license, thinks fit;
- (c) the license shall specify the number of carriages which the licensee shall run upon the tramway, the mode in which, and times at which, the carriages shall be run, the tolls to be paid to the promoter or lessee by the licensee for the use of the tramway, and the tolls, being those for the time being leviable by the promoter or lessee, which the licensee may demand and take for the use of his carriages;
- (d) the licensee and his officers and servants shall permit one person, duly authorised for that purpose by the promoter or lessee, to travel free of toll in or upon each carriage of the licensee run upon the tramway for the whole or any part of a journey;
- (e) any provision of this Act, or of the order or rules made under this Act, relating to the functions of a servant of a promoter or lessee shall be construed, so far as may be, as referring to a servant of the licensee; and
- (f) the Local Government may revoke, alter or modify the license for any cause sufficient in its opinion to warrant the revocation, alteration or modification thereof.

18. A licensee shall, on demand, give to an officer or servant authorised in that behalf by the promoter or lessee an exact account in writing, signed by the licensee, of the number of passengers, or number or quantity of goods, conveyed by any and every carriage used by him on the tramway.



*The Indian Tramways Act, 1886.**(Discontinuance of Tramways.—Insolvency of Promoter.—Sections 19-21)*  
*(Purchase of Tramways.—Section 22.)**Discontinuance of Tramways.*

19. If it is proved to the satisfaction of the Local Government, at any time after the opening of a tramway for public traffic, that the working of the tramway, or any part thereof, has been practically discontinued, for the space of three months, without a reason sufficient, in the opinion of the Local Government, to warrant the discontinuance, the Local Government, if it thinks fit, may, by notification in the official Gazette, declare that the powers of the promoter and of the lessee, if any, in respect of the tramway or the part thereof of which the working has been so discontinued, shall, from the date of the notification, be at an end; and thereupon the said powers shall cease and determine, except in so far as they may be purchased by a local authority in manner by this Act provided.

20. (1) Where a notification has been published under section 19, the road-authority may, at any time after the expiration of two months from the date of the notification, remove the tramway or part of the tramway of which the working has been so discontinued, and use the materials thereof in re-instating the road.

(2) The promoter shall pay to the road-authority the cost incurred by that authority in removing the tramway or the part thereof and in re-instating the road.

(3) The cost shall be certified by an officer of the road-authority, and his certificate, countersigned by the District Magistrate, shall be conclusive proof as to the cost incurred.

(4) If the promoter does not pay the amount so certified within one month after the delivery to him of the certificate or of a copy thereof, the road-authority may, without any previous notice to the promoter and without prejudice to any other remedy which it may have for the recovery of the amount, sell and dispose of such materials of the tramway or part thereof removed as it has not used in re-instating the road, either by public auction or by private sale, and for such sum or sums, and to such person or persons, as it thinks fit, and may, out of the proceeds of the sale, pay and reimburse itself the amount of the cost aforesaid and of the expenses of the sale, and shall pay over the residue (if any) of the proceeds of the sale to the promoter.

*Insolvency of Promoter.*

21. (1) If, at any time after the opening of a tramway in a circle for public traffic, it appears to the road-authority or local authority of the circle that the promoter of the tramway is insolvent, so that he is unable to maintain the tramway, or to work it with advantage to

the public, and either of those authorities makes a representation to that effect to the Local Government, the Local Government may, if after considering any statement which the promoter may desire to make, and after such further enquiry as it deems necessary, it is satisfied as to the truth of the representation, declare, by notification in the official Gazette, that the powers of the promoter shall, at the expiration of six months from the publication of the notification, be at an end; and the powers of the promoter shall cease and determine at the expiration of that period, except in so far as they may be purchased by a local authority in manner by this Act provided.

(2) Where a notification has been published under sub-section (1), the road-authority may, at any time after the expiration of six months from the date thereof, remove the tramway in the same manner, and subject to the same provisions as to the payment of the cost of the removal and to the same remedy for recovery of the cost, in every respect as in cases of removal under section 20.

*Purchase of Tramways.*

22. (1) Where the promoter of a tramway in a circle is not the local authority, the local authority, with the previous sanction of the Local Government, may—

- (a) within such limits of time as may be specified in this behalf in the order, or
- (b) if a time was not specified in the order, then within six months after the expiration of a period of twenty-one years from the date of the order, and within six months after the expiration of every subsequent period of seven years, or
- (c) within two months after the publication of a notification under section 19 or within six months after the publication of a notification under section 21,

by notice in writing, require the promoter to sell to the local authority his undertaking or the part thereof which is within the circle of the local authority; and thereupon the promoter shall sell the same upon the terms specified in the order, or, if the terms were not specified in the order, then upon the terms of paying the then value of the undertaking or of the part thereof, exclusive of any allowance for past or future profits of the undertaking or any compensation for compulsory sale or other consideration whatsoever.

(2) A requisition shall not be made under sub-section (1) unless the making thereof has been approved by the local authority in manner prescribed.

(3) When a sale has been made under this section, all the rights, powers and authorities of the promoter in respect of the undertaking or part

*The Indian Tramways Act, 1886.**(Working of Tramways owned by Local Authorities.—Rules.—Sections 23-24.)*

thereof sold, or, where a notification has been published under section 19 or section 21, all the rights, powers and authorities of the promoter previous to the publication of the notification in respect of the undertaking or part thereof sold, shall be transferred to the authority to whom the undertaking or part has been sold, and shall vest in, and may be exercised by, that authority in the same manner as if the tramway had been constructed by it under an order made under this Act.

(4) Subject to, and in accordance with, the preceding provisions of this section, two or more local authorities may jointly purchase an undertaking or so much thereof as is within their circles.

*Working of Tramways owned by Local Authorities.*

23. (1) When a local authority has under the lease of, or working authority of an order completed a tramway, or has authority under the provisions of this Act or of an order acquired possession of a tramway, it may, by a lease to be approved by the Local Government, let to any person the right of user of the tramway and of demanding and taking the authorised tolls.

(2) On the determination of a lease the local authority may from time to time let the right for such further term and on such conditions as the Local Government may approve.

(3) Every lease made under this section shall imply a condition of re-entry if at any time after the making thereof it is proved to the satisfaction of the Local Government that the lessee has practically discontinued the working of the tramway leased, or of any part thereof, for the space of one month without a reason sufficient, in the opinion of the Local Government, to warrant the discontinuance.

(4) Notice of the intention of the local authority to make a lease shall be given in manner prescribed.

(5) If the local authority cannot by means of a lease obtain what it deems to be a fair rent for the tramway, it may itself, with the previous sanction of the Local Government and for such term as the Local Government directs, place and run carriages upon the tramway, and demand and take the authorised tolls in respect of the use of the carriages.

*Rules.*

24. (1) In addition to any other power to make rules expressly or by implication conferred by this Act, the Local Government may make rules consistent with this Act—

(a) as to the form in which an application for an order shall be made ;

(b) as to the costs to be paid by an applicant in respect of an order, and the time when, and the place where, those costs shall be paid ;

(c) as to the payment of money or lodgment of securities, by way of deposit, by the applicant for an order before the order is published under section 6, sub-section (4), or a further order is made under section 8 ; the investment of money so paid ; the disposal of interest or dividends from time to time accruing due on money or securities so paid, lodged or invested ; the application of the money or securities or the produce thereof to the discharge of any liability incurred by the promoter ; and the forfeiture, repayment or return of the money or securities ;

(d) as to the plans and sections of any works to be deposited by applicants for orders or by promoters ;

(e) for regulating the use of steam-power or any other mechanical power on a tramway ;

(f) as to any matter specified in section 7, sub-section (2), clauses (c), (d), (e), (f) and (k), as a matter which may be provided for in an order, when that matter has not been so provided for, or has not, in the opinion of the Local Government, been effectually so provided for ;

(g) as to the periodical submission, by promoters, lessees and licensees, of accounts of traffic and receipts to the Local Government or as that Government directs, and as to the forms in which those accounts are to be submitted ;

(h) as to the accidents of which report is to be made to the Local Government or as that Government directs ;

(i) as to any matter respecting which rules may be made under this section by a local authority or a promoter or lessee ; and,

(j) generally, as to any other matter or thing in respect of which it may seem to the Local Government to be expedient to make rules for carrying out the purposes of this Act.

(2) A local authority may, from time to time, with the previous sanction of the Local Government, make rules consistent with this Act and with the order and any rules made by the Local Government under this Act for regulating—

(a) the rate of speed to be observed in travelling upon a tramway within the circle of the local authority ;

(b) the use of animal power on the tramway

(c) the distances at which carriages using the tramway are to be allowed to follow one after the other ;



*The Indian Tramways Act, 1886.**(Rules.—Sections 25-26.—Offences.—Sections 27-29.)*

- (d) the stopping of carriages using the tramway, and the notice to be given to the public of their approach;
- (e) the manner in which carriages using the tramway after sunset and before sunrise are to be lighted;
- (f) the traffic on roads along or across which the tramway is laid;
- (g) the number of passengers which may be carried in any carriage;
- (h) the licensing and control of drivers, conductors and other persons having charge of the carriages of the promoter or lessee or a licensee; and,

(i) generally, the mode of use of the tramway.

(3) The promoter or lessee of a tramway may, from time to time, with the previous sanction of the Local Government, make rules consistent with this Act and with the order and any rules made under this Act—

(a) for preventing the commission of any nuisance in or upon any carriage, or in or against any premises, belonging to him; and

(b) for regulating the travelling in any carriage belonging to him.

(4) The Local Government may cancel any rule made by a local authority or by a promoter or lessee under this section.

25. The authority making any rule under section 24 may direct that a breach of it shall be punishable with fine which may extend—

(a) if the authority making the rule is the Local Government, to two hundred rupees, and

(b) if that authority is a local authority or a promoter or lessee, to twenty rupees;

and when the breach is a continuing breach, with a further fine which may extend—

(c) if the authority making the rule is the Local Government, to fifty rupees, and

(d) if that authority is a local authority or a promoter or lessee, to five rupees,

for every day after the first during which the breach continues.

26. (1) Every authority having power to make rules under any section of this Act shall, before making the rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

(2) The publication shall be made, in the case of rules made by the Local Government, in such manner as may in its opinion be sufficient for giving information to persons interested, and, in the case of rules made by a local authority or by a promoter or lessee, in manner prescribed.

(3) There shall be published with the draft a notice specifying a date, not earlier than the expiration of one month after the date of publication, at or after which the draft will be taken into consideration.

(4) The authority shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(5) The publication in the official Gazette of a rule purporting to be made under this Act shall be conclusive proof that it has been duly made.

*Offences.*

Penalty for failure of promoter, lessee or licensee to comply with Act or order.

## 27. If a promoter—

(a) constructs or maintains a tramway otherwise than in accordance with the order, or

(b) opens the tramway for traffic, or permits it to be so opened, before it has been inspected and certified in manner required by section 12, or

(c) fails to observe any requirement or condition of the order for neglect or breach whereof no penalty has been expressly provided in the order,

or if a promoter, lessee or licensee runs a carriage on a tramway otherwise than in accordance with the order,

he shall (without prejudice to the enforcement of specific performance of the requirements of this Act or of the order, or to any other remedy which may be obtained against him in a Court of Civil Judicature), on complaint made by the Local Government or by the local authority or road-authority or by the District Magistrate or, with the previous sanction of the District Magistrate, by any person injuriously affected by the act or omission, be punished with fine which may extend to two hundred rupees, and in the case of a continuing offence to a further fine which may extend to fifty rupees for every day after the first during which the offence continues to be committed.

28. If any person without lawful excuse, the

burden of proving which shall lie upon him, wilfully obstructs any person acting

under the authority of the promoter in the lawful exercise of his powers in constructing or maintaining a tramway, or injures or destroys any mark made for the purpose of setting out the line of the tramway, he shall be punished with fine which may extend to fifty rupees.

29. If any person without lawful excuse, the

burden of proving which shall lie upon him, wilfully does any of the following

things, namely:—

(a) interferes with, removes or alters any part of a tramway constructed under

*The Indian Tramways Act, 1886.**(Offences.—Sections 30-34—Settlement of Differences.—Sections 3-35.)*

this Act, or of the works connected therewith, or

(b) places or throws upon or across any such tramway any wood, stone, refuse or other thing, or

(c) does anything in such a manner as to obstruct any carriage using any such tramway, or

(d) abets within the meaning of the Indian Penal Code the doing of, or attempts to do, anything mentioned in clause (a), clause (b) or clause (c),

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he shall (without prejudice to any other remedy which may be obtained against him in a Court of Civil Judicature) be punished with fine which may extend to one hundred rupees.

30. If any person, except under a lease from, or by agreement with, the promoter, or under license from the Local Government granted under this Act, uses on a tramway, otherwise than as permitted by section 14, a carriage having flange-wheels or other wheels suitable to run on the rail of the tramway, he shall be punished with fine which may extend to two hundred rupees.

31. (1) If any person travelling or having travelled in a carriage of the promoter or lessee or of a licensee evades or attempts to evade payment of toll, or if any person having paid toll for a certain distance wilfully proceeds in any such carriage beyond that distance and does not pay the additional toll for the additional distance or attempts to evade payment thereof, or if any person wilfully refuses or neglects on arriving at the point to which he has paid toll to quit the carriage, he shall be punished with fine which may extend to ten rupees.

(2) When a person commits an offence under this section and refuses on demand of a servant of the promoter, lessee or licensee to give his name and residence, or gives a name or residence which the servant has reason to believe to be false, he may be arrested and taken to the nearest police-station by the servant or any person whom the servant may call to his aid.

(3) When the person is taken to the police-station he shall with the least possible delay be forwarded to the nearest Magistrate, unless his true name and residence are ascertained, in which case he shall be released on his executing a bond for his appearance before a Magistrate if so required.

32. If any person takes or sends by a tramway any goods of a dangerous or offensive nature without giving the notice required by section 16, he shall be punished with fine which may extend to fifty rupees.

33. (1) If a licensee fails on demand to give the account mentioned in section 18, or, with intent to evade the payment of tolls, gives a false account when he is called upon to give an account under that section, he shall be punished with fine which may extend to fifty rupees.

(2) The fine shall be in addition to any tolls payable by the licensee to the promoter or lessee in respect of the passengers or goods conveyed by the carriage or carriages used by the licensee on the tramway.

34. Nothing in this Act shall prevent a person from being prosecuted under any other law for an act or omission which constitutes an offence against this Act or the rules made under it, or from being liable under that other law to any other or higher punishment or penalty than that provided by this Act or the rules made under it: Provided that a person shall not be punished twice for the same offence.

*Settlement of Differences.*

35. (1) If any difference arises between the promoter or lessee on the one hand and the Local Government, or the local authority, or the road-authority, or a person having the charge of any sewers, drains, telegraph-lines, gas-pipes, water-pipes or other things in or on land occupied by the tramway, on the other hand, with respect to any interference or control exercised or claimed to be exercised by, or on behalf of, either party by virtue of this or any other Act, or of the order or the rules made under this Act, or with respect to the propriety of, or the mode of, the execution of any work, or with respect to any compensation to be made by or to the promoter or lessee, or on the question whether any work is such as ought reasonably to satisfy the Local Government or the road-authority or both, or with respect to any other subject or thing regulated by, or comprised in, this Act or the order or the rules made under this Act, and not otherwise expressly provided for therein, the matter in difference shall, except where the parties elect to proceed under section 523 of the Code of Civil Procedure, be settled, on the application of either party, by a referee.

(2) Where the difference is—

(a) between the promoter or lessee on the one hand and the Local Government, either as such or as the road-authority, on the other, or

(b) between the promoter on the one hand and the local authority on the other, with respect to the sum to be paid by the local authority for an undertaking or part of an undertaking which that authority has required the promoter to sell under section 22,



*The Indian Tramways Act, 1886.**(Recovery of Tolls.—Sections 36-38—Savings.—Sections 39-41.)*

the referee shall be the District Court within the jurisdiction of which the tramway is situate, or, where the tramway is within the jurisdiction of more than one District Court, the District Court within the jurisdiction of which the greater part of the tramway is situate.

(5) In other cases the referee shall be appointed by the Local Government.

(4) Except where the referee is the District Court, the powers and procedure of the referee may be prescribed.

(5) In the case of a difference between a promoter on the one hand and a local authority on the other, with respect to the sum to be paid by the local authority for an undertaking or part of an undertaking which that authority has required the promoter to sell under section 22, an appeal shall lie to the High Court from the award of the referee as from an original decree of the District Court.

(6) In the case of every other difference the award of the referee shall be final.

*Recovery of Tolls.*

36. Any of the following moneys, namely, any rent due to a local authority from a lessee, any penalty recoverable from a promoter or lessee under an order, any sum payable by a promoter or lessee under an award of a referee, the cost of the performance under this Act by the Local Government or by a local authority or road-authority of any work required by this Act or by an order to be done by a promoter, and the cost incurred by a road-authority in removing a tramway and re-instating a road under this Act, may, without prejudice to any other remedy that the authority to which the money is due may have by suit or otherwise, be recovered by that authority, on application made in this behalf to the Collector, as if the sum due were an arrear of land-revenue due by the promoter or lessee or his surety (if any):

\* Provided that nothing in this section shall authorise the arrest of the promoter or lessee or his surety in execution of any process issued by the Collector.

37. (1) If a licensee fails to pay on demand the tolls due for the use of a tramway, the promoter or lessee to whom the tolls are due may, without prejudice to the remedy which he may have by suit, apply to a Magistrate to recover the amount of the tolls, and the Magistrate may, after giving notice to the licensee if possible and allowing him an opportunity of being heard, proceed to recover the amount by distress and sale of any carriages or other moveable property of the licensee which may be found on the tramway or on premises connected therewith.

(2) When a licensee has failed to pay on demand the tolls due from him, the promoter or

lessee to whom the tolls are due may seize any carriage or other moveable property of the licensee on the tramway or on premises connected therewith, and detain the same for forty-eight hours unless the tolls are sooner paid.

(3) When application is made to a Magistrate under sub-section (1), he may make an interim order of distraint pending his final decision.

38. Any toll due to a promoter, lessee or licensee from a passenger may be recovered either by suit or, on application to a Magistrate having jurisdiction within any local area in which any part of the tramway is laid, by distress and sale of any moveable property belonging to the passenger within the local limits of the jurisdiction of the Magistrate.

*Savings.*

39. (1) Notwithstanding anything contained in this Act, or in an order or any rule made under this Act, a promoter shall not acquire any right other than that of user only over a road along or across which he lays a tramway, nor shall anything contained in this Act, or in an order or any rule made under this Act, exempt the promoter of a tramway, or any other person using the tramway, from the payment of such charges as may lawfully be levied in respect of the use of a road or bridge along or across which the tramway is laid.

(2) The Local Government may, if it thinks fit, fix rates at which a promoter, lessee or licensee may compound for the charges payable in respect of the use of a road or bridge.

40. (1) Nothing in this Act, or in an order or any rule made under this Act, shall take away or abridge any power which a road-authority, local authority or other person has by law to break up, widen, alter, divert or improve a road, railroad or tramway along or across which a tramway is laid.

(2) The road-authority, local authority or other person executing any work referred to in sub-section (1) shall not be liable to pay to a promoter, lessee or licensee any compensation for injury done to a tramway by the execution of the work or for loss of traffic occasioned by the reasonable use of any power lawfully exercised for the execution thereof.

41. Nothing in this Act, or in an order or any rule made under this Act, shall affect the powers of a local authority or of a Magistrate or police-officer to regulate the passage of traffic along or across a road along or across which a tramway is laid; and the authority, Magistrate or officer aforesaid may exercise its or his powers as well on as off the tramway and with respect as well to the traffic

*The Indian Tramways Act, 1886.**(Supplemental Provisions.—Sections 42-50.)*

of a promoter, lessee or licensee as to the traffic of other persons.

*Supplemental Provisions.*

42. A promoter, lessee or licensee shall be answerable for all injuries happening through his act or default, or through the act or default of any person in his employment, by reason or in consequence of any of his carriages or works, and shall save harmless all authorities and persons collectively and individually, and their officers and servants, from all damages and costs in respect of injuries so happening.

43. For the purposes of this Act want of funds shall not be deemed to be a sufficient reason for the suspension of the construction, or the discontinuance of the working, of a tramway by a promoter or lessee.

44. When a tramway is constructed under this Act within the limits of a municipality, the Local Government may exempt the animals, plant, rolling-stock, yards, workshops, engine-sheds and depôts of the promoter, lessee or licensee, for such period as it thinks fit, from all or any municipal taxes leviable within those limits.

45. (1) The fund to or with the control or management of which the local authority of a municipality, cantonment or district is entitled or entrusted shall, notwithstanding anything in any enactment respecting the purposes to which that fund may be applied, be applicable, subject to the control of the Local Government, to the payment of expenses incidental to the exercise of the powers and functions which may be vested in or exercised by a local authority under this Act.

(2) The fund shall also be applicable, with the previous sanction of the Local Government, to a guarantee of the payment of interest on money to be applied, with the concurrence in writing of the local authority, within the limits of the local area under its control, to any of the purposes to which the fund might be applied by the local authority under sub-section (1).

46. The Local Government may, with the consent of the local authority and road-authority and of the promoter and his lessee (if any), extend any part of this Act, or any rules made under this Act, either with or without modification, to the whole or any part

of a tramway constructed, or authorised by the Local Government to be constructed, before the passing of this Act, and may withdraw any part of the Act or any rules so extended.

47. (1) A tramway of which the construction has not been authorised by the Local Government before the passing of this Act shall not, after the passing of this Act, be constructed for public traffic in any place to which this Act extends, except in pursuance of an order made under this Act.

(2) A person constructing a tramway in contravention of sub-section (1) of this section,

or after the passing of this Act maintaining or using for public traffic, otherwise than in pursuance of an order made under this Act, a tramway which was not constructed, or authorised by the Local Government to be constructed, before the passing of this Act,

shall be liable, on the complaint of the Local Government or local authority, to double the penalty to which a promoter acting otherwise than in accordance with an order is liable under section 27.

48. If at any time a local area comprising a tramway to which this Act or any part thereof or any rule thereunder applies ceases to be included in the circle of a

local authority, the functions of that authority under this Act or the part thereof or the rule thereunder, and under the order (if any), shall, in respect of that local area, devolve on the Local Government or, if that Government so directs, on the local authority of the circle in which the tramway has been included.

49. (1) In section 54 of the Indian Railway Act, 1879, the word "tramway" shall have the meaning assigned to it by section 3 of this Act.

(2) In the same section of that Act, after the words "by steam" the words "or other mechanical power" shall be added.

50. All powers conferred by this Act on a Local Government may be exercised from time to time as occasion requires.

S. HARVEY JAMES,

Offg. Secy. to the Govt. of India.



The following Report of the Select Committee on the Bill to facilitate the construction and to regulate the working of Tramways was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 5th March, 1886 :—

### LEGISLATIVE DEPARTMENT.

WE, the undersigned, Members of the Select Committee to which the Bill to facilitate the

From Secretary to Chief Commissioner, Coorg, No. 1573—466, dated 12th December, 1885 [Paper No. 1].

From Secretary for Berar to Resident, Hyderabad, No. 582 G., dated 14th December, 1885 [Paper No. 2].

From Chief Commissioner, Ajmer-Merwara, No. 215 C., dated 17th December, 1885 [Paper No. 3].

From Registrar, High Court, Calcutta, No. 3303, dated 23rd December, 1885 [Paper No. 4].

From Secretary to Government, North-Western Provinces and Oudh, No. 1097—XI-176-16, dated 31st December, 1885, and enclosure [Papers No. 5].

From Officiating Assistant Secretary to Chief Commissioner, Central Provinces, No. 62—214, dated 7th January, 1886 [Paper No. 6].

From Under-Secretary to Government, Bombay, No. 62, dated 9th January, 1886, and enclosures [Papers No. 7].

From Secretary to Chief Commissioner, Assam, No. 6 T., dated 9th January, 1886 [Paper No. 8].

From Acting Chief Secretary to Government, Madras, No. 77, dated 11th January, 1886, and enclosures [Papers No. 9].

Memorandum by J. Kincaid, Esq., M.C.I.E. [Paper No. 10].

From Under-Secretary to Government, Bombay, No. 321, dated 26th January, 1886 [Paper No. 11].

From Officiating Secretary to Government, Punjab, No. 143, dated 6th February, 1886, and enclosures [Papers No. 12].

From Officiating Secretary to Chief Commissioner, British Burma, Nos 388—6L., dated 12th February, 1886, and enclosures [Papers No. 13].

From Officiating Under-Secretary to Government, Bengal, No. 805, dated 20th February, 1886, and enclosures [Papers No. 14].

lines extending beyond municipal limits, it is often difficult to say whether the line ought to be treated as a tramway or as a light railway, and the object of the proviso is to give the Government of India an opportunity of determining, with reference to particular cases or classes of cases, to which of the two categories such lines ought to be treated as belonging.

3. By section 5 we have empowered the Local Government to modify conditions sought to be imposed by a local authority with respect to the construction within its circle of part of a tramway which is to be laid in two or more circles.

4. In sections 17 and 21 we have provided for an opportunity being given to the promoter to state his case before the Local Government either grants licenses under the former section or determines the powers of the promoter under the latter section.

5. By clauses (g) and (h) of sub-section (1) of section 24 we have enabled the Local Government to make rules as to the periodical submission of statistics relating to tramways, and as to the accidents of which report is to be made.

6. By clause (e) of sub-section (2) of the same section we have empowered local authorities to make rules as to the manner in which carriages using the tramway after sunset and before sunrise are to be lighted.

7. By section 27 we have made the previous sanction of the District Magistrate a condition precedent to the institution by a private person of criminal proceedings against a promoter, lessee or licensee for breach of any provision of the Act or of any direction of an order authorizing the construction of a tramway.

8. By section 35 we have provided that, except where the parties to a difference elect to proceed under section 523 of the Code of Civil Procedure, the matter in difference between them shall be settled, on the application of either party, by a referee, and that, where the difference is between the promoter on the one hand and the local authority on the other with respect to the sum to be paid by the local authority for an undertaking which that authority has required the promoter to sell under section 22, the referee shall be the District Court. We have also provided that, in that case, an appeal shall lie to the High Court from the award of the District Court.

9. To section 45 we have added a sub-section supplementary to Act XV of 1885 (*an Act to amend the Local Authorities Loan Act, 1879*).

10. By section 47 of the Bill we have proposed that, in places to which the Act extends, tramways of which the construction has not been authorised before the passing of the Act shall not be constructed, after the passing of the Act, otherwise than in pursuance of an order made under the Act.

construction and to regulate the working of Tramways was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

2. The object of the proviso to section 4, sub-section (1), of the Bill does not appear to have been understood. In the case of

11. By section 48 we have made provision for cases in which a local area comprising a tramway is excluded from the circle of one local authority and included in that of another.

12. By section 49 we have proposed so to amend section 54 of the Indian Railway Act, 1879, as to enable the Governor General in Council to apply that Act or any portion thereof to a tramway worked by any mechanical power.

13. The other amendments of the Bill are few and unimportant, and do not call for special notice.

14. The publication ordered by the Council has been made as follows :—

*In English.*

<i>Gazette.</i>	<i>Date.</i>
Gazette of India ...	31st October, and 7th and 14th November, 1885.
Fort Saint George Gazette ...	18th November, 1885.
Bombay Government Gazette ...	5th, 12th and 19th November, 1885.
Calcutta Gazette ...	11th, 18th and 25th November, 1885.
North-Western Provinces and Oudh Government Gazette ...	7th, 14th and 21st November, 1885.
Punjab Government Gazette ...	5th, 12th and 19th November, 1885.
Central Provinces Gazette ...	7th, 14th and 21st November, 1885.
British Burma Gazette ...	21st and 28th November, and 5th December, 1885.
Assam Gazette ...	21st November, 1885.
Coorg District Gazette ...	1st December, 1885.
Sindh Official Gazette ...	10th December, 1885.

*In the Vernaculars.*

<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Bombay ...	Maráthi ...	17th December, 1885.
	Gujaráthi ...	
	Kanarese ...	
	Sindhi ...	
North-Western Provinces and Oudh ...	Urdu ...	23rd and 30th January, and 6th February, 1886.

15. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

C. P. ILBERT.

S. C. BAYLEY.

T. C. HOPE.

H. ST.A. GOODRICH.

ROBERT STEEL.

V. N. MANDLIK.

*The 5th March, 1886.*

S. HARVEY JAMES,

*Offg. Secretary to the Government of India.*



## GOVERNMENT OF INDIA.

## LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 12th March, 1886, and is hereby promulgated for general information:—

ACT NO. XII OF 1886.

## THE PETROLEUM ACT, 1886.

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*Preliminary.*

## SECTIONS.

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2. Repeal.
3. Definitions.
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5. Dangerous petroleum in quantities exceeding forty gallons.
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*Petroleum generally.*

8. Power for Local Government to make rules as to importation and refining of petroleum.
9. Procedure after petroleum has been discharged or landed.
10. Possession and transport of petroleum.
11. Power to make rules as to possession and transport.
12. Power to inspect and require dealer to sell samples.
13. Notice to be given when officer proposes to test samples.
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15. Penalty for illegal importation, possession or transport of petroleum.
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*Test-apparatus.*

20. Model test-apparatus.
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22. Power to Local Government to exempt petroleum from operation of this Act.

## SECTIONS.

23. Power to apply this Act to other fluids.
24. Power to limit operation of enactments relating to municipalities.
25. Power to revoke or vary notifications.
26. Procedure for making and publication of rules.

## THE SCHEDULE.

*An Act to regulate the importation, possession and transport of Petroleum and other fluids of a like nature.*

WHEREAS it is expedient to regulate the importation, possession and transport of petroleum and other fluids of a like nature; It is hereby enacted as follows:—

*Preliminary.*

Short title, commencement and local extent.

1. (1) This Act may be called the Petroleum Act, 1886; and

(2) It shall come into force on such day as the Governor General in Council, by notification in the Gazette of India, appoints.

(3) The provisions of this Act relating to dangerous petroleum, and the importation of petroleum, extend to the whole of British India. The rest of this Act extends only to such local areas as the Local Government may from time to time, by notification in the official Gazette, direct.

(4) Any power conferred by this Act to make rules or issue orders may be exercised at any time after the passing of this Act; but a rule or order so made or issued shall not take effect until the Act comes into force.

2. (1) On and from the day on which this Act comes into force, the Petroleum Act, 1881, shall be repealed:

VIII of 1881.

(2) But all notifications issued, rules made, licenses granted, powers conferred and certificates given under that Act shall, so far as may be, be deemed to have been issued, made, granted, conferred and given under this Act.

3. In this Act, unless there is something repugnant in the subject or context,—

Definitions.

(1) "petroleum" includes also the liquids commonly known by the names of rock oil, Rangoon oil, Burma oil, kerosine, paraffine oil, mineral oil, petroline, gasoline, benzol, benzoline, benzine, and any inflammable liquid which is made from petroleum, coal, schist, shale, peat or any other bituminous substance, or from any products of petroleum; but it does not include any oil ordinarily used for lubricating purposes and having its flashing point at or above two hundred degrees of Fahrenheit's thermometer:

(2) "dangerous petroleum" means petroleum having its flashing point below seventy-six degrees

*The Petroleum Act, 1886.**(Dangerous Petroleum.—Sections 4-8.)*

of Fahrenheit's thermometer: Provided that, when all or any of the petroleum on board a ship, or in the possession of a dealer, is declared by the master of the ship or the consignee of the cargo, or by the dealer, as the case may be, to be of one uniform quality, the petroleum shall not be deemed to be dangerous if the samples selected from the petroleum have their flashing points, on an average, at or above seventy-three degrees of Fahrenheit's thermometer, and if no one of those samples has its flashing point below seventy degrees of that thermometer:

(3) "import" means to bring into British India by sea or land,

and "importation" means the bringing into British India as aforesaid:

(4) "transport" means to remove from one place to another within British India: and

(5) "ship" includes anything made for the conveyance by water of human beings or property.

4. (1) The flashing point of petroleum means

the lowest temperature at which the petroleum yields a vapour which will furnish a momentary flash or flame when tested in accordance with the directions in the schedule to this Act with an apparatus which has been stamped and certified as provided by this Act within a period of five years immediately preceding the date on which the apparatus is used for the testing, and after the corrections (if any) which the certificate declares are to be applied to the results of the testing have been made.

(2) Notwithstanding anything in the definitions of "import", "importation" and "transport", the Local Government, with the previous sanction of the Governor General in Council, may from time to time, by notification in the official Gazette, declare—

(a) that petroleum imported into its territories from any part of British India, by sea or across intervening territory not being part of British India, shall, for all or any of the purposes of this Act, be deemed to be transported; and

(b) that petroleum transported into its territories from any place in British India shall, for all or any of those purposes, be deemed to be imported;

and thereupon the provisions of this Act, and of the rules made under this Act, with respect to transport and import, respectively, shall apply to petroleum so imported or transported.

*Dangerous Petroleum.*

5. (1) No quantity of dangerous petroleum

exceeding forty gallons shall be imported or transported, or kept by any one person or on the same premises, except under, and in accordance with the conditions of, a license from the Local Government granted as next hereinafter provided.

(2) Every application for such a license shall be in writing, and shall declare—

(a) the quantity of the petroleum which it is desired to import, transport or possess, as the case may be;

(b) the purpose for which the applicant believes that the petroleum will be used; and

(c) that petroleum other than dangerous petroleum cannot be used for that purpose.

(3) If the Local Government sees reason to believe that the petroleum will be used for that purpose, and that no petroleum other than dangerous petroleum can be used for the purpose, it may grant the license for the importation, transport or possession (as the case may be) of the petroleum, absolutely or subject to such conditions as it thinks fit.

6. No quantity of dangerous petroleum equal to or less than forty gallons shall be kept or transported without a license:

Dangerous petroleum in quantities not exceeding forty gallons.

Provided that nothing in this section shall apply in any case when the quantity of the petroleum kept by any one person or on the same premises, or transported, does not exceed three gallons, and the petroleum is placed in separate glass, stoneware or metal vessels, each of which contains not more than a pint and is securely stopped.

Vessels containing dangerous petroleum to be labelled.

*7. Dangerous petroleum—*

(a) which is kept at any place after seven days from the date on which it is imported, or

(b) which is transported, or

(c) which is sold or exposed for sale,

shall be contained in vessels having attached thereto a label in conspicuous characters stating the description of the petroleum, with the addition of the words "highly inflammable" and with the addition—

(d) in the case of a vessel kept, of the name and address of the consignee or owner;

(e) in the case of a vessel transported, of the name and address of the sender; and

(f) in the case of a vessel sold or exposed for sale, of the name and address of the vendor.

*Petroleum generally.*

8. (1) The Local Government, with the previous sanction of the Governor General in Council, may make rules consistent with this Act to regulate the importation of petroleum, and in particular—

(a) to determine the ports at which only petroleum may be imported;

(b) to ascertain the quantity and description of any petroleum on board any ship;

(c) to determine the places at which, and the conditions on and subject to which petroleum may be discharged into boats, landed, transhipped or stored;

(d) to provide for the selection by an officer appointed by the Local Government in this behalf, and for the delivery to him, either after or before petroleum has been landed, of samples of all petroleum landed or intended to be landed;

(e) to provide, in the case of each consignment which is stated to be of one uniform quality, for the number of samples to be selected, and for the averaging of the results of the testing of those samples;

(f) to provide, where the results of the testing of the samples raise a doubt as to the uniformity of the quality of the petroleum in any such consignment, for the division of the consignment into lots, and for the



*The Petroleum Act, 1886.**(Petroleum generally.—Sections 9-14.)*

selection and testing of samples of each lot, and for the treatment of the lot in accordance with the results of the testing of those samples;

- (g) to fix fees for the sampling and testing of petroleum; and
- (h) to fix fees for the storage of petroleum unless a body of port commissioners or other like body is empowered in that behalf.

(2) The Local Government, with the previous sanction of the Governor General in Council, may, with respect to any petroleum produced within its territories, make rules—

- (a) to define the limits of the places where the petroleum is to be refined;
- (b) to provide for the testing of the petroleum at or near those places; and
- (c) to prevent the removal from those limits, otherwise than under the provisions of this Act applicable to dangerous petroleum, of petroleum which has not satisfied the tests prescribed by the rules.

9. (1) Petroleum discharged into boats or landed

Procedure after petroleum has been discharged or landed.

in accordance with rules made under section 8, sub-section (1), shall not be removed from the boats or places in or at which it is stored until the samples selected therefrom in accordance with those rules have been tested by an officer appointed by the Local Government in this behalf in the manner described in the schedule to this Act with an apparatus which has been stamped and certified as provided by this Act, and until the officer has given a certificate that the petroleum is not dangerous petroleum.

(2) If the officer after testing the samples refuses to give the certificate in respect of any petroleum, the Local Government may permit the consignee, within a time to be fixed by the Local Government in this behalf,—

- (a) to rectify the petroleum,
- (b) to apply for a license to import the petroleum as dangerous petroleum, or
- (c) to re-export the petroleum.

(3) If the consignee does not within the time fixed under sub-section (2) avail himself of the permission granted under that sub-section, the petroleum may be disposed of as the Local Government directs.

(4) Notwithstanding anything in the foregoing portions of this section, the Local Government in its discretion may, where the officer has refused the certificate, direct that the petroleum be re-tested by another officer appointed by it in this behalf, and may, if that officer advises that the petroleum is not dangerous petroleum, authorise its removal from the boats or places in or at which it is stored.

10. No quantity of petroleum exceeding five hundred gallons shall be kept by any one person or on the same premises or shall be transported except under, and in accordance with the conditions of, a license granted under this Act.

11. (1) The Local Government, with the previous sanction of the Governor General in Council, may make rules consistent with this Act as to the granting

of licenses to possess or transport petroleum in cases where such licenses are by law required.

(2) The rules may provide for the following among other matters, that is to say:—

in the case of licenses to possess petroleum—

- (a) the nature and situation of the premises for which they may be granted, and
- (b) the inspection of the premises and the testing of petroleum found thereon;

in the case of licenses to transport petroleum—

- (c) the manner in which the petroleum is to be packed, the mode and time of transit, and the route by which it is to be taken, and
- (d) the stoppage and inspection of it during transit;

in the case of both such licenses—

- (e) the authority by which the license may be granted;
- (f) the fee to be charged for it;
- (g) the quantity of petroleum it is to cover;
- (h) the conditions which may be inserted in it;
- (i) the time during which it is to continue in force; and
- (j) the renewal of the license.

(3) The Governor General in Council may make rules consistent with this Act as to the granting of licenses to transport petroleum from any part of British India to any other part of British India in cases where such licenses are by law required; and those rules may provide, among other matters, for those mentioned in sub-section (2) as matters for which rules made by a Local Government with respect to licenses to transport petroleum may provide.

12. Any officer specially authorized by name

Power to inspect and require dealer to sell samples. or by virtue of his office in this behalf by the Local Government may require

any dealer in petroleum to show him any place and any of the vessels in which any petroleum in his possession is stored or contained, to give him such assistance as he may require for examining the same, and to deliver to him samples of the petroleum on payment of the value of the samples.

13. When any such officer has, in exercise of

Notice to be given when officer proposes to test samples.

the powers conferred by section 12, or by purchase, obtained a sample of petroleum in the possession of a dealer, he may give a notice in writing to the dealer informing him that he is about to test the sample or cause it to be tested with the apparatus and in the manner described in the schedule to this Act, at a time and place to be fixed in the notice, and that the dealer or his agent may be present at the testing.

14. On any such testing, if it appears to the

Certificate as to result of testing.

officer or other person so testing that the petroleum from which the sample has been taken is or is not dangerous petroleum, the officer or other person may certify the fact; and the certificate so given shall be receivable as evidence in any proceedings which may be taken under this Act against the dealer in whose possession the petroleum was found, and shall, until the contrary is proved, be evidence of the fact stated therein; and a certified copy of the certificate shall be given free of charge to the dealer at his request.

*The Petroleum Act, 1886.**(Test-apparatus.—Sections 18-21.) & (Miscellaneous.—Sections 22-26.)**Penalties.*

15. Any person who, in contravention of this Act or of any rules made under this Act, imports, possesses or transports any petroleum, and any person who otherwise contravenes any such rules or any condition contained in a license granted under this Act, shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

Penalty for illegal importation, possession or transport of petroleum.

16. Any person keeping, transporting, selling or exposing for sale petroleum in vessels not labelled as prescribed by section 7, shall be punished with fine which may extend to five hundred rupees.

Penalty for keeping, transporting, selling or exposing for sale petroleum in contravention of section 7.

17. Any dealer in petroleum who refuses or neglects to show to any Officer authorized under section 12 any place or any of the vessels in which petroleum in his possession is stored or contained, or to give him such assistance as he may require for examining the same, or to give him samples of the petroleum on payment of the value of the samples, shall be punished with fine which may extend to two hundred rupees.

Penalty for refusing to comply with section 12.

18. In any case in which an offence under section 15 or section 16 has been committed, the convicting Magistrate may direct that—

Confiscation of petroleum.

- (a) the petroleum in respect of which the offence has been committed, or
- (b) where the offender is importing or transporting, or is in possession of, any petroleum exceeding the quantity (if any) which he is permitted to import, transport or possess, as the case may be, the whole of the petroleum which he is importing or transporting or is in possession of, shall, together with the tins or other vessels in which it is contained, be confiscated.

19. The criminal jurisdiction under this Act shall, in the towns of Calcutta, Madras and Bombay, be exercised by a Presidency Magistrate, and elsewhere by a Magistrate of the first class, or (where specially empowered by the Local Government to try cases under this Act) a Magistrate of the second class.

Jurisdiction.

*Test-apparatus.*

20. A model of the apparatus for testing petroleum under this Act, constructed in accordance with the description contained in the schedule to this Act, shall be deposited in the office of the Chemical Examiner to Government, Calcutta, and be marked with the words "Model test-apparatus."

Model test-apparatus.

21. (1) The Chemical Examiner shall, on payment of such fee (if any) as the Governor General in Council may, from time to time, by notification in the Gazette of India, prescribe, compare with the said model test-apparatus and verify every apparatus for testing petroleum which is submitted to him for the purpose.

Verification of test-apparatus.

(2) If any apparatus for testing petroleum, when compared and verified as provided by sub-section (1), is found correct, or correct subject to cer-

tain corrections to be applied to the results of the tests, the Chemical Examiner shall stamp the same with a special number, and, with the date of the verification, and shall further give a certificate in writing under his hand, in a form to be prescribed by the Governor General in Council, to the effect that on the date aforesaid the apparatus was compared and verified by him and found to be correct, or correct subject to certain specified corrections to be applied to the results of the tests.

(3) A certificate granted under this section shall, until the contrary is proved, be conclusive proof of the matters stated therein.

(4) The Chemical Examiner shall keep a register, in a form to be prescribed by the Governor General in Council, of the certificates granted under this section.

(5) Subject to the payment of such fees as the Governor General in Council may, by notification in the Gazette of India, prescribe in this behalf, the said model test-apparatus shall be at all reasonable times open to inspection by any person desiring to inspect it.

*Miscellaneous.*

22. The Local Government may, from time to time, by notification in the official Gazette, exempt from the operation of all or any of the provisions of this Act, or of all or any of the rules made under this Act, any petroleum which has its flashing point at or above one hundred and twenty degrees of Fahrenheit's thermometer and is imported as ordinary cargo and in quantity not exceeding that specified in the notification.

23. The Governor General in Council may, from time to time, by notification in the Gazette of India, apply the whole or any portion of this Act to any inflammable fluid other than petroleum, and may by the notification fix, in substitution for the quantities of petroleum fixed by sections 5, 6 and 10, the quantities of the fluid to which those sections shall apply.

Power to apply this Act to other fluids.

24. The Governor General in Council may, from time to time, by notification in the Gazette of India and in the local official Gazette, limit, in any manner he deems fit, the operation of any enactment for the time being in force relating to municipalities in any local area or to any particular municipality, and the exercise of any power conferred by any such enactment, in so far as the enactment relates to the possession or transport of petroleum.

Power to limit operation of enactments relating to municipalities.

25. A notification made under this Act may be revoked or varied by the authority making it by a notification published in the same manner as the notification so revoked or varied.

Power to revoke or vary notifications.

26. (1) An authority making rules under this Act shall, before making the rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

Procedure for making and publication of rules.

(2) The publication shall be made in such manner as the Governor General in Council, from time to time, by notification in the Gazette of India, prescribes.



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(3) There shall be published with the draft a notice specifying a date at or after which the draft will be taken in consideration.

(4) The authority making the rules shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(5) A rule made under this Act shall not take effect if it is made by the Governor General in Council until it has been published in the Gazette of India, and if it is made by the Local Government until it has been published in the local official Gazette.

(6) The publication in the Gazette of a rule purporting to be made under this Act shall be conclusive proof that it has been duly made.

(7) All powers to make rules conferred by this Act may be exercised from time to time as occasion requires.

## THE SCHEDULE.

*I.—Nature of the Test-apparatus.*

The apparatus consists of the following parts:—

- (1) the oil-cup;
- (2) the cover, with slide, test-lamp, and clockwork arrangement for opening and closing the holes in the cover and for dipping the test-flame;
- (3) the water-bath or heating vessel;
- (4) the tripod stand, with jacket and spirit-lamp for heating the water-bath;
- (5) the thermometer for indicating the temperature of the oil in the oil-cup;
- (6) the thermometer for indicating the temperature of the water in the water-bath;
- (7) the thermometer for indicating the temperature of the oil before it is poured into the oil-cup;
- (8) the dropping bottle or *pipette* for replenishing the test-lamp; and
- (9) a barometer standardised at the Meteorological Office of the province or at any other place appointed by the Local Government.

The oil-cup is a cylindrical flat-bottomed vessel, made of gun-metal or brass, and tinned or silvered inside. A gauge is fixed to the inside of the cup to regulate the height to which it is to be filled with the sample under examination.

The cup is provided with a close fitting overlapping cover, which carries the thermometer, the test-lamp and the adjuncts thereto. The test-lamp is suspended upon two supports by means of trunnions, which allow it to be easily inclined to a particular angle and restored to its original

position. The socket in the cover, which is to hold a round bulb thermometer for indicating the temperature of the oil during the testing operation, is so adjusted that the bulb of the latter is always inserted in a definite position below the surface of the liquid.

The cover is provided with three holes, one in the centre and two smaller ones close to the sides. These are closed and opened by means of a pivoted slide. When the slide is moved so as to uncover the holes, the suspended lamp is caught by a projection fixed on the slide, and tilted in such a way as to bring the end of the spout just below the surface of the lid. As the slide moves back so as to cover the holes, the lamp returns to its original position. Upon the cover, in front of and in a line with the nozzle of the lamp, is fixed a white bead, the diameter of which represents the size of the test-flame to be used.

The water-bath or heating vessel is so constructed that, when the oil-cup is placed in position in it, an air-space or air chamber intervenes between the two; consequently, in applying the test under ordinary circumstances, the heat is transmitted gradually to the oil from the hot water through the air-space. The water-bath is fitted with a socket for receiving a long bulb thermometer, to indicate the temperature of the water. It is also provided with a funnel, an overflow-pipe and two handles.

The water-bath rests upon a tripod stand, which is fitted with a copper cylinder or jacket, so that the bath is surrounded by an enclosed air-space, which retains and regulates the heat. One of the legs of the stand serves as a support for a spirit-lamp, which is attached to it by a small swing bracket.

The clockwork arrangement, by which during the operation of testing the slide is withdrawn, and the test-flame dipped into the cup and raised again as the slide is replaced, is provided with a ratchet key for setting it in action for each test, and with a trigger for starting it each time that the test-flame is applied.

*II.—Directions for drawing the Sample and preparing it for Testing.*

1. *Drawing the sample.*—In all cases the testing officer or some person duly authorised by him shall personally superintend the drawing of the sample from an original unopened tin or other vessel.

An opening sufficiently large to admit of the oil being rapidly poured or syphoned from the tin or other vessel shall be made.

Two bottles, each of the capacity of about 40 fluid ounces, are to be filled with the oil. One of these, the contents of which is intended to be preserved for reference in case of need, is to be carefully corked, the cork being well driven home,

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cut off level with the neck, and melted sealing-wax worked into it. The other bottle may be either stoppered or corked.

2. *Preparing the sample for testing.*—About ten fluid ounces of the oil, sufficient for three tests, are transferred from the bottle into which the sample has been drawn to a pint flask or bottle, which is to be immersed in water artificially cooled until a thermometer, introduced into the oil, indicates a temperature not exceeding 50° Fahrenheit.

III.—*Directions for preparing and using the Test-apparatus.*

1. *Preparing the water-bath.*—The water-bath is filled by pouring water into the funnel until it begins to flow out at the overflow-pipe. The temperature of the water at the commencement of each test, as indicated by the long bulb thermometer, is to be 130° Fahrenheit, and this is attained in the first instance by mixing hot and cold water, either in the bath or in a vessel from which the bath is filled, until the thermometer which is provided for testing the temperature of the water gives the proper indication; or the water is heated by means of the spirit-lamp (which is attached to the stand of the apparatus) until the required temperature is indicated.

2. *Preparing the test-lamp.*—The test-lamp is fitted with a piece of cylindrical wick of such thickness that it fills the wick-holder, but may readily be moved to and fro for the purpose of adjusting the size of the flame. In the body of the lamp, upon the wick, which is coiled within it, is placed a small tuft of cotton wool, moistened with petroleum, any oil not absorbed by the wool being removed. When the lamp has been lighted, the wick is adjusted by means of a pair of forceps until the flame is of the size of the bead fixed on the cover of the oil-cup; should a particular test occupy so long a time that the flame begins to get smaller, through the supply of oil in the lamp becoming exhausted, three or four drops of petroleum are allowed to fall upon the tuft of wool in the lamp from the dropping bottle or pipette provided for that purpose. This can be safely done without interrupting the test.

3. *Filling the oil-cup.*—The oil-cup having been previously cooled, by placing it bottom downwards in water at a temperature not exceeding 50° Fahrenheit, is to be rapidly wiped dry, placed on a level surface in a good light, and the oil to be tested is poured in very slowly, without splashing, until its surface is level with the point of the gauge which is fixed in the cup. The round bulb thermometer is inserted into the lid of the cup, care being taken that the projecting rim of the collar touches the edge of the socket; the test-lamp, prepared as already described, is placed in position, and the cover is then put on to the cup and pressed down so that its edge rests on the rim of the cup.

4. *Application of the test.*—The water-bath, with its thermometer in position, is placed in some locality where it is not exposed to currents of air, and where the light is sufficiently subdued to admit of the size of the entire test-flame being compared with that of the bead on the cover. The cup is carefully lifted without shaking it, and placed in the bath, the test-lamp is lighted, and the clockwork wound up by turning the key. The thermometer in the oil-cup is now watched, and when the temperature has reached 56° Fahrenheit the clockwork is set in motion by pressing the trigger.

If no flash takes place the clockwork is at once re-wound, and the trigger pressed at 57° Fahrenheit, and so on, at every degree rise of temperature, until the flash occurs, or until a temperature of 95° Fahrenheit has been reached.

If the flash takes place at any temperature below 77° Fahrenheit the temperature at which it occurs is to be recorded. The fresh portions of the sample are then to be successively tested in a similar manner and the results recorded. If no greater difference than 2° Fahrenheit exists between any two of the three recorded results, each result is to be corrected for atmospheric pressure, as hereafter described, and the average of the three corrected results is the flashing point of the sample. In the event of there being a greater difference than 2° Fahrenheit between any two of the results, the series of tests is to be rejected and a fresh series, of three, similarly obtained, and so on until a sufficiently concordant series is furnished, when the results are to be corrected and the average taken in the manner already described.

No flash which takes place within eight degrees of the temperature at which the testing is commenced shall be accepted as the true flashing point of the sample tested. In the event of a flash occurring at or below 64° when the test is applied in the manner above described, the next testing shall be commenced ten degrees lower than the temperature at which the flash had been previously obtained (that is to say, at 54° or thereunder), and this procedure shall be continued until the results of three consecutive tests do not show a greater difference than 2°.

If a temperature of 76° Fahrenheit has been reached without a flash occurring, the application of the test-flame is to be continued at every degree rise of temperature until a temperature of 95° Fahrenheit has been reached. If no flash has occurred up to this point, and if the petroleum is declared to be imported subject to the provisions of the Act, the tests shall not be continued, and the testing officer shall certify that the petroleum has a flashing point over 95° and is not dangerous. But if the petroleum is oil ordinarily used for lubricating purposes and is declared to have its flashing point at or above 200° degrees, or is oil to which a notification of the Local Government exempting it from the operation of the Act will be



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applicable in the event of the flashing point being found to be at or above 120°, the test shall be continued as follows:—The oil-cup is to be removed from the water-bath, and the temperature of the water in the water-bath is to be reduced to 95° Fahrenheit by pouring cold water into the funnel (the hot water escaping by the overflow-pipe). The air-chamber is then to be filled to a depth of 1½ inches with water at a temperature of about 95° Fahrenheit, the oil-cup is to be replaced in the water-bath and the spirit-lamp attached to the water-bath is to be lighted and placed underneath. The test-flame is then to be again applied, from 96° Fahrenheit, at every degree rise of temperature as indicated by the thermometer in the oil-cup until a flash takes place or until a temperature of 200° Fahrenheit or 120° Fahrenheit, as the case may be, has been reached. If during this operation the test-flame appears to diminish in size, the lamp is to be replenished in the manner prescribed at (2) without interrupting the test.

If a flash occurs at any temperature between 76° and 200° Fahrenheit, the temperature at which it occurs, subject to correction for atmospheric pressure, is the flashing point of the sample.

In repeating a test a fresh sample of oil must always be used, the tested sample being thrown away, and the cup must be wiped dry from any adhering oil and cooled, as already described, before receiving the fresh sample.

5. *Correction for atmospheric pressure.*—As the flashing point of an oil is influenced by changes in atmospheric pressure to an average extent of 1·6° Fahrenheit for every inch of the barometer, a correction of the observed flashing point may become necessary. The height of the barometer must therefore be determined at the time of making the test for the flashing point. The true height of the barometer for the purpose of the test shall be considered to be the height of the column of mercury measured at 32° Fahrenheit, which is supported by the air pressure at the time of the experiment; that is, the actual height of the barometer at the time of observation duly corrected for any error of the instrument and for its temperature if necessary. For the purpose of applying the correction to the flashing point of the oil obtained by the test, a table is appended to this schedule, giving the flashing points of oils ranging from 65° to 80° Fahrenheit, under pressure ranging from 27 to 31 inches of mercury.

The table is used in the following manner:—

*Example.*—An oil has given a flashing point of 71°, the barometer being at 28·6 inches; take the nearest number to 71° in the vertical column headed 28·6. This number is 70·8. Substitute for this the number in the same horizontal line in the column headed 30 (the normal height of the barometer). The substituted number, that is, the true flashing point of the oil, is 73°.

Table for correction of Flashing Points indicated by the Test for Variations in Barometric Pressure on either side of Thirty Inches.

Barometer in Inches.	Barometer in Inches.											
	27	27·2	27·4	27·6	27·8	28	28·2	28·4	28·6	28·8	29	29·2
Flashing Point in Degrees Fahrenheit.	29·4	29·6	29·8	30	30·2	30·4	30·6	30·8	31			
60·2	60·5	61·5	62·5	63·5	64·5	65·5	66·5	67·5	68·5	69·5	70·5	71·5
61·2	61·8	62·8	63·8	64·8	65·8	66·8	67·8	68·8	69·8	70·8	71·8	72·8
62·2	62·8	63·8	64·8	65·8	66·8	67·8	68·8	69·8	70·8	71·8	72·8	73·8
63·2	63·5	64·5	65·5	66·5	67·5	68·5	69·5	70·5	71·5	72·5	73·5	74·5
64·2	64·5	65·5	66·5	67·5	68·5	69·5	70·5	71·5	72·5	73·5	74·5	75·5
65·2	65·5	66·5	67·5	68·5	69·5	70·5	71·5	72·5	73·5	74·5	75·5	76·5
66·2	66·5	67·5	68·5	69·5	70·5	71·5	72·5	73·5	74·5	75·5	76·5	77·5
67·2	67·5	68·5	69·5	70·5	71·5	72·5	73·5	74·5	75·5	76·5	77·5	78·5
68·2	68·5	69·5	70·5	71·5	72·5	73·5	74·5	75·5	76·5	77·5	78·5	79·5
69·2	69·5	70·5	71·5	72·5	73·5	74·5	75·5	76·5	77·5	78·5	79·5	80·5
70·2	70·5	71·5	72·5	73·5	74·5	75·5	76·5	77·5	78·5	79·5	80·5	81·5
71·2	71·5	72·5	73·5	74·5	75·5	76·5	77·5	78·5	79·5	80·5	81·5	82·5
72·2	72·5	73·5	74·5	75·5	76·5	77·5	78·5	79·5	80·5	81·5	82·5	83·5
73·2	73·5	74·5	75·5	76·5	77·5	78·5	79·5	80·5	81·5	82·5	83·5	84·5
74·2	74·5	75·5	76·5	77·5	78·5	79·5	80·5	81·5	82·5	83·5	84·5	85·5
75·2	75·5	76·5	77·5	78·5	79·5	80·5	81·5	82·5	83·5	84·5	85·5	86·5

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cut off level with the neck, and melted sealing-wax worked into it. The other bottle may be either stoppered or corked.

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60·2	60·5	60·8	61·2	61·5	61·8	62·1	62·4	62·8	63·1	63·4	63·7	64	64·4	64·7	65	65·3	65·6	66	66·3	66·6
61·2	61·5	61·8	62·2	62·5	62·8	63·1	63·4	63·8	64·1	64·4	64·7	65	65·4	65·7	66	66·3	66·6	67	67·3	67·6
62·2	62·5	62·8	63·2	63·5	63·8	64·1	64·4	64·8	65·1	65·4	65·7	66	66·4	66·7	67	67·3	67·6	68	68·3	68·6
63·2	63·5	63·8	64·2	64·5	64·8	65·1	65·4	65·8	66·1	66·4	66·7	67	67·4	67·7	68	68·3	68·6	69	69·3	69·6
64·2	64·5	64·8	65·2	65·5	65·8	66·1	66·4	66·8	67·1	67·4	67·7	68	68·4	68·7	69	69·3	69·6	70	70·3	70·6
65·2	65·5	65·8	66·2	66·5	66·8	67·1	67·4	67·8	68·1	68·4	68·7	69	69·4	69·7	70	70·3	70·6	71	71·3	71·6
66·2	66·5	66·8	67·2	67·5	67·8	68·1	68·4	68·8	69·1	69·4	69·7	70	70·4	70·7	71	71·3	71·6	72	72·3	72·6
67·2	67·5	67·8	68·2	68·5	68·8	69·1	69·4	69·8	70·1	70·4	70·7	71	71·4	71·7	72	72·3	72·6	73	73·3	73·6
68·2	68·5	68·8	69·2	69·5	69·8	70·1	70·4	70·8	71·1	71·4	71·7	72	72·4	72·7	73	73·3	73·6	74	74·3	74·6
69·2	69·5	69·8	70·2	70·5	70·8	71·1	71·4	71·8	72·1	72·4	72·7	73	73·4	73·7	74	74·3	74·6	75	75·3	75·6
70·2	70·5	70·8	71·2	71·5	71·8	72·1	72·4	72·8	73·1	73·4	73·7	74	74·4	74·7	75	75·3	75·6	76	76·3	76·6
71·2	71·5	71·8	72·2	72·5	72·8	73·1	73·4	73·8	74·1	74·4	74·7	75	75·4	75·7	76	76·3	76·6	77	77·3	77·6
72·2	72·5	72·8	73·2	73·5	73·8	74·1	74·4	74·8	75·1	75·4	75·7	76	76·4	76·7	77	77·3	77·6	78	78·3	78·6
73·2	73·5	73·8	74·2	74·5	74·8	75·1	75·4	75·8	76·1	76·4	76·7	77	77·4	77·7	78	78·3	78·6	79	79·3	79·6
74·2	74·5	74·8	75·2	75·5	75·8	76·1	76·4	76·8	77·1	77·4	77·7	78	78·4	78·7	79	79·3	79·6	80	80·3	80·6
75·2	75·5	75·8	76·2	76·5	76·8	77·1	77·4	77·8	78·1	78·4	78·7	79	79·4	79·7	80	80·3	80·6	81	81·3	81·6

S. HARVEY, JAMES,  
Offg. Secretary to the Government of India.

The following Report of the Select Committee on the Bill to amend the Petroleum Act, 1881, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 5th March, 1886 :—

### LEGISLATIVE DEPARTMENT.

WE, the undersigned, Members of the Select Committee to which the Bill to amend the Petroleum Act, 1881, was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

2. On the general question of standards and the definition of dangerous petroleum, we adhere to the scheme laid down in section 3 of the Bill. But Dr. Warden and Mr. Pedler suggest that the lowest standard for lubricating oils (the attainment of which would exempt them from the operation of the Act) should be fixed at 200° instead of 250° as in the present Act. It is, they explain, practically impossible with the Abbe apparatus to test up to 250°. They consider the limit of 150°, which is proposed in some of the papers, too low for this country, and believe 200° would meet all reasonable requirements. In this view we concur. We are also of opinion that Local Governments should be empowered to exempt from the operation of the Act and rules oil certified to be over 120° when imported as ordinary cargo and in limited quantities.

3. We consider that section 4 of the Bill should be omitted. Messrs. Warden and Pedler point out that the drawback of the fragility of glass for carriage is frequently more than counterbalanced by its impermeability. It is very difficult in this country to get tin or metal vessels made which shall be thoroughly impervious to highly volatile oil.

4. It is suggested by the Bombay Government and other authorities that it should be made clear that conveyance by sea from one part of British India to another is "transport" and not "import" within the meaning of the Act. We are of opinion that some discretion in the matter should be left to the Local Governments. It would be unsafe, for instance, at present to admit freely to Calcutta oil brought up from Burma. Experience has shown that in Burma refining is not yet thoroughly understood, and the local testing is not at present very trustworthy. The Local Governments in India should have power to treat such oil as foreign oil until its quality generally improves. On the other hand, there is no reason why foreign oil once properly tested should be re-tested on arrival at a second port. We have taken power for the Local Governments of territories, such as Burma and Assam, in which oil is or is likely to be produced, to appoint testing officers at or near refineries, and to prevent the removal from the refineries of oil which does not satisfy the tests otherwise than under the regulations for the control of dangerous petroleum.

5. Turning now to the question of the method of sampling cargoes, we concur with the Bombay Government and other authorities in thinking that it should be open to the Local Government by rule to provide for sampling either before or after landing; to prescribe the number of samples to be taken from a cargo or consignment or any part thereof; to provide, when the first test is unsatisfactory, or when doubt is felt as to the uniformity of quality in the cargo, for the landing and sorting of the cargo in lots, or its delivery into boats, each of a certain capacity; and for the sampling of each lot or boat-load, and its ultimate treatment in accordance with the results of the test in each case.



When a doubtful cargo has to be landed and stacked, substantial fees should be levied, as much additional work is thrown upon Government officers.

6. With reference to the objections taken by some Bombay officers to the provisions of the schedule requiring that the sample tin should be tapped in presence of the testing officer, we observe that Messrs. Warden and Pedler both attach importance to this, as all manipulation and airing of the oil tends to raise its flashing point, and the drawing of oil for testing purposes should in any case be under the control of a responsible officer of the testing department. They consider that in most cases the selection of *one* case from a cargo of oil certified before arrival to be ordinary petroleum is sufficient, if care is taken to get the sample from below, and thus to defeat any attempt at "facing" the cargo. The number of samples taken at Bombay appears to be unduly large, and has given rise to the objection that to convey them to the Chemical Examiner's laboratory would be an arduous task. We have so amended the Schedule, Part II, paragraph 1, as to provide that the testing officer or some person duly authorized by him shall superintend the drawing of the sample.

7. In revising the Bill we have had regard to the practice which obtains in Bombay of allowing delivery into cargo-boats pending the result of testing, and to the suggestion of the Bengal Government that the Local Government should have the power in special cases to order further tests in such manner as it may deem expedient.

8. As regards the suggestion of the Bombay Government that a second standard apparatus should be maintained at Bombay, it appears to us to be highly important to secure uniformity in the tests throughout India. To this end there should be but one absolute and ultimate standard, and this can most conveniently be maintained in Calcutta.

9. We are of opinion that the Chemical Examiner should stamp any apparatus sent to him not only with a special number but also with the date of his verification of the apparatus, and further that he should give a certificate in writing under his hand, in a form to be laid down by the Governor General in Council, to the effect that the apparatus has been compared and verified by him on a given date and been found to be correct, or correct subject to certain specified corrections to be applied to the results of tests.

10. The Chemical Examiner should also keep a register of verifications.

11. Messrs. Warden and Pedler suggest that in the Schedule, Part I, provision be made for "a barometer standardised at the Meteorological Office of the province, or at any other place appointed by the Local Government." We have accepted the suggestion.

12. With respect to the changes in the Schedule, Part III, proposed by Dr. Lyon, Messrs. Warden and Pedler are inclined to hold that Sir F. Abel has in a paper before us sufficiently met Dr. Lyon's difficulty, and they believe that in practice no difficulty is likely to arise of the kind Dr. Lyon puts forward. They have, however, suggested, and we have acted on the suggestion, that all possible objection would be removed if it were provided that no flashing point obtained should be accepted unless it be at least  $8^{\circ}$  above the temperature at which the testing commenced.

13. Messrs. Warden and Pedler are of opinion that it is unnecessary in the case of ordinary petroleum to continue the tests when no flash has been obtained up to  $95^{\circ}$  Fahrenheit. It is only in the case of petroleum for which exemption from the Act is claimed that the test need be continued in the manner laid down in the fourth paragraph of the rules for "application of the test". We have modified that paragraph accordingly.

14. In the Schedule, Part III, paragraph 5, we have pointed out that the height of the barometer must be determined at the time of making the test for the flashing point.

15. We are advised not to accept the suggestion made from Burma to adopt Hewmann's apparatus in preference to Abel's.

16. We have had regard to the remarks of the Bombay Government with reference to the repeal of the municipal laws affecting petroleum, and to giving power to Port Trusts to regulate their own fees for the storage of petroleum.

17. Having thus amended the Bill we have deemed it advisable to consolidate it and the Petroleum Act of 1881, and, in doing so, have taken the opportunity (a) to enhance the penalty for keeping, transporting, selling or exposing for sale dangerous petroleum in contravention of the Act, and (b) to empower the Governor General in Council to make rules as to the transport of petroleum from any part of British India to any other part.

18. The other alterations we have made in consolidating the Bill and the Act are few and unimportant and do not call for notice.

19. The publication ordered by the Council has been made as follows :—

		<i>In English.</i>		<i>Date.</i>
<i>Gazette.</i>				
Gazette of India	...	...	...	14th, 21st and 28th March, 1885.
Fort Saint George Gazette	...	...	...	8th April, 1885.
Bombay Government Gazette	...	...	...	26th March, and 2nd and 9th April, 1885.
Calcutta Gazette	...	...	...	1st and 8th April, 1885.
North-Western Provinces and Oudh Government Gazette	...	...	...	28th March, and 4th and 11th April, 1885.
Punjab Government Gazette	...	...	...	9th, 16th and 23rd April, 1885.
Central Provinces Gazette	...	...	...	4th, 11th and 18th April, 1885.
British Burma Gazette	...	...	...	11th, 18th and 25th April, 1885.
Assam Gazette	...	...	...	4th, 11th and 18th April, 1885.
Coorg District Gazette	...	...	...	1st May, 1885.

		<i>In the Vernaculars.</i>		<i>Date.</i>
<i>Province.</i>		<i>Language.</i>		
Madras	...	Kanarese	...	16th June, 1885.
		Telugu	...	23rd June, 1885.
		Malayalam	...	30th June, 1885.
		Tamil	...	17th July, 1885.
Bombay	...	Hindustani	...	4th June, 1885.
		Gujarathi	...	11th June, 1885.
		Marathi	...	28th April, 1885.
		Kanarese	...	21st May, 1885.
Bengal	...	Bengali	...	9th June, 1885.
		Uriya	...	18th and 25th May, and 1st June, 1885.
		Hindi	...	20th and 27th June, and 4th July, 1885.
Punjab	...	Urdu	...	
Central Provinces	...	Marathi	...	

20. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended and consolidated with the Act of 1881.

*The 5th March, 1886.*

C. P. ILBERT.

S. C. BAYLEY.

J. W. QUINTON.

H. ST. A. GOODRICH.

ROBERT STEEL.

S. HARVEY JAMES,

*Offg. Secretary to the Government of India.*



## GOVERNMENT OF INDIA.

## LEGISLATIVE DEPARTMENT.

[First publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 19th March, 1886, and is hereby promulgated for general information :—

ACT No. XIII OF 1886.

THE INDIAN SECURITIES ACT,  
1886.

## CONTENTS.

## SECTIONS.

1. Short title and commencement.
2. Repeal.
3. Definitions.
4. Notice of trust not receivable.
5. Right of survivors of joint payees of Government securities.
6. Prohibition of indorsements on allonges to Government securities.
7. Holding of Government securities by holders for the time being of public offices.
8. Transfer and discharge of certificates and coupons.
9. Indorser of Government security not liable for amount thereof.
10. Impression of signature on Government securities.
11. Issue of renewed securities.
12. Issue of duplicate securities.
13. Period after which the Government is released from liability in respect of original security.
14. Power of Governor General in Council to make rules.
15. Publication of drafts and rules.

*An Act to consolidate and amend the law relating to Government Securities.*

WHEREAS it is expedient to consolidate and amend the law relating to Government securities; It is hereby enacted as follows :—

Short title and commencement.

1. (1) This Act may be called the Indian Securities Act, 1886; and

(2) It shall come into force on the first day of April, 1886.

(3) The power conferred on the Governor General in Council by section 7, sub-section (1), may be exercised at any time after the passing of this Act; but a notification issued in exercise of that power shall not take effect until the Act comes into force.

2. (1) On and from the day on which this Act comes into force, the Indian Securities Act, 1881, and the Indian Securities Act, 1885, shall be repealed. III of 1881. XIX of 1885.

(2) But any authority conferred, notification issued, list published or rule or order made under either of those Acts shall, so far as may be, be deemed to have been conferred, issued, published or made under this Act.

## Definitions.

## 3. In this Act—

(1) "Government security" includes promissory notes, debentures, stock-certificates and all other securities issued by the Government of India or by any Local Government in respect of any loan contracted either before or after the passing of this Act, but does not include a stock-note or a currency-note: and

(2) "prescribed" means prescribed by rules made by the Governor General in Council.

4. No notice of any trust in respect of any Government security shall be receivable by the Government.

5. (1) Notwithstanding anything in the Indian Contract Act, 1872, section 45, when a Government security is payable to two or more persons jointly and either or any of them dies, the security shall be payable to the survivor or survivors of those persons. IX of 1872.

(2) Nothing herein contained shall affect any claim which the representative of the deceased person may have against the survivor or survivors in respect of the security jointly payable to him or them and the deceased.

(3) This section shall apply whether the death of the person to whom the security was jointly payable occurred or occurs before or after this Act comes into force.

XXVI of  
1881.

6. Notwithstanding anything in section 15 of the Negotiable Instruments Act, 1881, the holder of a Government security shall not be said to indorse the security, or be called the indorser thereof, if, when he signs the same for the purpose of negotiation, he inscribes his signature for that purpose elsewhere than on the back of the security itself.

7. (1) In the case of any public office to which the Governor General in Council may, from time to time, by notification in the Gazette of India, declare this sub-section to apply, a Government security may be made or indorsed payable to or to the order of the holder for the time being of the office by the name of the office.

(2) When a Government security is made or indorsed as aforesaid, it shall be deemed to be transferred without any or further indorsement from each holder for the time being of the office to the succeeding holder for the time being of the office on and from the date on which the latter takes charge of the office.

(3) When the holder for the time being of the office indorses to a third party a Government security made or indorsed as aforesaid, he shall subscribe the indorsement with his name and the name of the office.

(4) A writing on a Government security now or heretofore standing in the name of the holder of a public office, whereby the security has been or was made or indorsed payable to or to the order of the holder of the office for the time being, shall not be deemed to be or to have been invalid by reason only of the payee or indorsee being the holder for the time being of a public office by the name of the office.

(5) This section applies as well to an office of which there are two or more joint holders as to an office of which there is a single holder.

8. (1) Whenever the Governor General in Council has issued, in respect of any loan, a certificate declaring the bearer thereof to be entitled to the portion of the loan therein expressed, or a coupon for any amount payable as interest on any portion of the loan, the title to the certificate or coupon may be transferred as if the certificate or coupon were a promissory note payable to bearer.

(2) On payment, by or on behalf of the Government, to the bearer of the certificate or coupon, of the amount expressed therein, at or after the date on which it becomes due, the Government shall be discharged as if the certificate or coupon were a promissory note payable to bearer.

9. A person shall not, by reason only of his indorsement of Government security, be liable to pay any money due, either as principal or as interest, thereunder.

10. (1) The signature of the officer of the Government of India authorized to sign Government securities on behalf of the Government may be printed, engraved or lithographed, or im-

pressed by such other mechanical process as the Governor General in Council may direct, on the securities.

(2) A signature so printed, engraved, lithographed or otherwise impressed shall be as valid as if it had been inscribed in the proper handwriting of the officer.

11. A person claiming to be entitled to a Government security as payable to him under an indorsement may, on satisfying the prescribed officer of the justice of his claim and paying the prescribed fee and delivering the security duly receipted to the prescribed officer, obtain from the officer a renewed security issued payable to himself.

12. (1) When a Government security is alleged to have been wholly or partly lost or destroyed, and a person claims to be the person to whom but for the loss or destruction it would be payable, he may, on application to the prescribed officer, and on producing proof to his satisfaction of the loss or destruction and of the justice of the claim, obtain from him an order for—

- (a) the payment of interest in respect of the security said to be lost or destroyed pending the issue of a duplicate security; and
- (b) the issue of a duplicate security payable to the applicant.

(2) An order shall not be passed under sub-section (1) until after the issue of the prescribed notification of the loss or destruction and after the expiration of the prescribed period, nor until the applicant has given the prescribed indemnity against the claims of all persons deriving title under the security lost or destroyed.

(3) A list of the securities in respect of which an order is passed under sub-section (1) shall be published in the Gazette of India at such times as the Governor General in Council may, from time to time, direct.

13. When a renewed security has been issued under section 11, or a duplicate security has been issued under section 12, the Government shall be discharged from all liability in respect of the original security of which the renewed or duplicate security has been issued—

- (a) in the case of a renewed security, after the lapse of six years from the date of the issue of the renewed security;
- (b) in the case of a duplicate security, after the lapse of six years from the date of the publication under section 12, sub-section (3), of the list in which the security is first mentioned, or from the date of the last payment of interest on the original security, whichever date is the later.

14. The Governor General in Council may, from time to time, make rules to prescribe—

- (a) the mode in which payment of interest in respect of Government securities is to be recorded and acknowledged;